

In The Matter Of:

*Chad Hogan v.
City of Montgomery, et al.*

*M. D. Gordon
February 9, 2006*

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**Chad Hogan v.
City of Montgomery, et al.**

M. D. Gordon
February 9, 2006

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[1] IN UNITED STATES DISTRICT COURT [2] FOR THE MIDDLE DISTRICT OF ALABAMA [3] NORTHERN DIVISION		[1] STIPULATIONS	
[4]		[2] It is stipulated and agreed by and between	
[5] CHAD HOGAN, [6] Plaintiff,		[3] counsel representing the parties that the deposition of	
[7] vs. CIVIL ACTION NO.		[4] M. D. GORDON may be taken before Angela Fulmer, Certified	
[8] 2:05CV-687-F		[5] Shorthand Reporter and Notary Public in and for the State	
[9] CITY OF MONTGOMERY, et al.,		[6] of Alabama at Large, without the formality of a	
[10] Defendants.		[7] commission; and all formality with respect to other	
[11]		[8] procedural requirements is waived; that objections to	
[12]		[9] questions, other than objections as to the form of the	
[13] * * * * *		[10] questions need not be made at this time, but may be	
[14]		[11] reserved for a ruling at such time as the deposition may	
[15]		[12] be offered in evidence or used for any other purpose by	
[16]		[13] either party as provided by the Federal Rules of Civil	
[17] Procedure.		[14]	
[18]		[15] It is further stipulated and agreed by and	
[19]		[16] between the parties hereto and the witness, that the	
[20] DEPOSITION OF M. D. GORDON,		[17] signature of the witness to this deposition is hereby	
[21] taken pursuant to notice and stipulation on behalf of the		[18] waived	
[22] Plaintiff, in the Law Offices of Thomas, Means, Gillis &		[19]	
[23] Seay, P.C., 3121 Zelda Court, Montgomery, Alabama, before		[20]	
[24] Angela Fulmer, Certified Shorthand Reporter and Notary		[21]	
[25] Public in and for the State of Alabama at Large, on		[22]	
[26] February 9, 2006, commencing at 9 a.m.		[23] * * * *	
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[1] APPEARANCES		[1] INDEX	
[2]		[2]	
[3] FOR THE PLAINTIFF:		[3] EXAMINATION	
[4]		[4] BY MR. NELMS:	
[5] ANDERSON K. NELMS, ESQUIRE		[5]	
[6] JAY LEWIS, ESQUIRE		[6] EXHIBITS	
[7] Law Offices of Jay Lewis, L.L.C.		[7] PX1 I&O, arrest report, statements	
[8] 847 S. McDonough Street		[8] PX2 interrogatories	
[9] Montgomery, Alabama 36104		[9] PX3 drawing	
[10] FOR THE DEFENDANTS:		[10]	
[11]		[11] CERTIFIED QUESTIONS	
[12] H. LEWIS GILLIS, ESQUIRE		[12] Lines 19-21	
[13] CHRISTOPHER K. WHITEHEAD, ESQUIRE		[13] Lines 1-3	
[14] RAMADANAH M. SALAAM, ESQUIRE		[14]	
[15] Thomas, Means, Gillis & Seay, P.C.		[15]	
[16] 3121 Zelda Court		[16]	
[17] Montgomery, Alabama 36106		[17]	
[18] MICHAEL D. BOYLE, ESQUIRE		[18]	
[19] City of Montgomery		[19]	
[20] 103 No. Perry Street		[20]	
[21] Montgomery, Alabama 36104		[21]	
[22] ALSO PRESENT:		[22]	
[23] Ron Cook		[23]	
[24] Billy Caulfield			
[25] Chad Hogan			

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<p>[1] M. D. GORDON, of lawful age, [2] having been first duly sworn, testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. NELMS:</p> <p>MR. NELMS: Usual stipulations?</p> <p>MR. WHITEHEAD: Yeah.</p> <p>[7] Q. Okay, sir. By the way, I noted that the notice of deposition said Jim Gordon.</p> <p>[8] A. I think J. M. or something.</p> <p>[9] Q. Yeah. I wanted to make sure I've got the right guy.</p> <p>[10] State your full name for the Record.</p> <p>[11] A. Marquedric Dante Gordon.</p> <p>[12] Q. And do you have -- and you're a member of the Montgomery Police Department?</p> <p>[13] A. Correct.</p> <p>[14] Q. And were you a member of the Montgomery Police Department in March of 2005?</p> <p>[15] A. Correct.</p> <p>[16] Q. And do you have a number assigned to you as an officer?</p> <p>[17] A. I do.</p> <p>[18] Q. And what is your number?</p> <p>[19] A. It's -- right now it's 149. But then it was 150.</p>	<p>[1] Q. Okay. And did you attend the police academy?</p> <p>[2] A. Yes.</p> <p>[3] Q. Which one?</p> <p>[4] A. Montgomery Police Academy.</p> <p>[5] Q. Okay. And did you graduate?</p> <p>[6] A. I did.</p> <p>[7] Q. All right. Are you post certified?</p> <p>[8] A. I am.</p> <p>[9] Q. Okay. And when did you graduate?</p> <p>[10] A. August -- I want to say August 12, '02.</p> <p>[11] Q. All right. And when did you receive your post certification?</p> <p>[12] A. August 12th. My graduation date.</p> <p>[13] Q. All right. And during your post training, what classes, generally, did you take?</p> <p>[14] A. We took plenty.</p> <p>[15] Q. Well, let me tell you -- are you aware that there is a basic level, an advanced level, and an executive level of training for post certification?</p> <p>[16] A. Well, I -- I don't know what the Montgomery Police standards would be. I don't know if it's basic or advanced or what it would be. But whatever their standards are, that's what I took. I'm not sure</p>
<p>[1] Q. 150?</p> <p>[2] A. Uh-huh.</p> <p>[3] Q. Okay. And are you the officer that made the arrest of Chad Hogan in --</p> <p>[4] A. Yes, sir.</p> <p>[5] Q. Okay. We had a J. M. Gordon and then I dictated to the secretary and she put Jim Gordon and neither was right. How about that?</p> <p>[6] A. I don't even think we have a J. M. at the police department.</p> <p>[7] Q. All right. But you got served with the lawsuit?</p> <p>[8] A. Right.</p> <p>[9] Q. Okay. And you are the proper defendant?</p> <p>[10] A. Right.</p> <p>[11] MR. GILLIS: Objection.</p> <p>[12] MR. NELMS: I'll agree with your objection.</p> <p>[13] MR. WHITEHEAD: Yeah.</p> <p>[14] Q. All right. How long have you been with the police force?</p> <p>[15] A. April 18, 2002 is my hire date.</p> <p>[16] Q. Okay. And what's your date of birth?</p> <p>[17] A. February 9, 1982 is my birth date.</p>	<p>[1] Q. exactly what it is.</p> <p>[2] Q. Okay. So is it fair to say you completed the basic?</p> <p>[3] A. Correct.</p> <p>[4] Q. Okay. Have you been back for any other training for any further post certification?</p> <p>[5] A. I take -- yeah. I take classes. We have classes all the time that we go back and -- refresher courses or -- just classes for just additional training.</p> <p>[6] Q. Are you maintain -- are you required to maintain certain --</p> <p>[7] A. Hours.</p> <p>[8] Q. -- credit hours?</p> <p>[9] A. Right.</p> <p>[10] Q. On an annual basis?</p> <p>[11] A. Correct.</p> <p>[12] Q. Okay. I also note that you have on your lapel that you're a K-9 officer.</p> <p>[13] A. Correct.</p> <p>[14] Q. Okay. Do you have any special training to be a --</p> <p>[15] A. Correct.</p> <p>[16] Q. Okay. Tell me about that special training.</p> <p>[17] A. Well, when you transfer to the K-9 unit, you're</p>

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<p style="text-align: right;">Page 9</p> <p>[1] assigned a dog. Yourself and your partner, your [2] dog, you have to go through a bonding process first. [3] Once you -- once you bond with your partner, if he [4] doesn't have his obedience in him, it's up to you to teach him his obedience. If the dog is trained on [5] his obedience, you have to learn the commands to give to your dog. After the obedience, you train [6] him how to apprehend, how to track, and how to search, and all that good stuff.</p> <p>[7] Q. Okay. And were you a K-9 officer on March 31, 2005?</p> <p>[8] A. Correct.</p> <p>[9] Q. Okay. And were you working on March 31, 2005?</p> <p>[10] A. Correct.</p> <p>[11] Q. Okay. Tell me what shift you were working.</p> <p>[12] A. Third shift.</p> <p>[13] Q. Third shift?</p> <p>[14] A. Uh-huh.</p> <p>[15] Q. And what hours are those?</p> <p>[16] A. Eleven to seven.</p> <p>[17] Q. Eleven at night to seven in the morning?</p> <p>[18] A. Seven in the morning, yes.</p> <p>[19] Q. Okay. It's kind of hard for her to -- if we talk over each other. So I'll ask, and, then, if you</p>	<p style="text-align: right;">Page 11</p> <p>[1] Q. Okay. So it's a division within patrol division?</p> <p>[2] A. Correct.</p> <p>[3] Q. Okay. And how many K-9 officers were there on the streets of Montgomery March 31, 2005, if you --</p> <p>[4] A. I do not recall.</p> <p>[5] Q. Okay. On a typical third shift night like March 31, 2005, how many K-9 officers would there be on the street?</p> <p>[6] A. Well, we have a total of -- I want to say eleven. That's with the supervisors. I don't know if anyone was off. It depends on people's off days. But a typical night, I would say at least five or six.</p> <p>[7] Q. Okay. And there are three shifts per twenty-four-hour period; correct?</p> <p>[8] A. Correct. Not for K-9, though.</p> <p>[9] Q. Okay.</p> <p>[10] A. We're only -- at the time, we were doing a second and a third shift. No first shift.</p> <p>[11] Q. Okay. What hours are first shift?</p> <p>[12] A. First shift is --</p> <p>[13] Q. Seven --</p> <p>[14] A. Seven until three I think.</p> <p>[15] Q. Okay. On the night of March 31, 2005, if you can</p>
<p style="text-align: right;">Page 10</p> <p>[1] would, please, you just answer. And, by the way, I [2] didn't say this in the very beginning. But if I ask [3] a question that you don't understand for any reason, [4] it's more than appropriate for you to say, sir, I [5] don't understand the question, and I'll --</p> <p>[6] A. Okay.</p> <p>[7] Q. -- try to rephrase it. I'm really bad about asking [8] complicated questions or compound questions. Also, [9] if at any time during the course of this deposition [10] you wish to take a break, you're more than welcomed [11] to take break. Just say, I need a break, and we'll [12] take a break.</p> <p>[13] A. Okay.</p> <p>[14] Q. And if you need to confer with your counsel, that's [15] fine, too. There's no problem with that.</p> <p>[16] And were you assigned to a special division or [17] a group within the Montgomery Police Department that [18] night of March 31, 2005</p> <p>[19] A. Just the K-9 unit.</p> <p>[20] Q. Okay. Is the K-9 unit separate from other units in [21] the Montgomery Police Department?</p> <p>[22] A. It's a part of patrol. But we have our own [23] division.</p>	<p style="text-align: right;">Page 12</p> <p>[1] recall -- first of all, do you know what day of week [2] that was?</p> <p>[3] A. Wednesday or Thursday. I'm not sure.</p> <p>[4] Q. Okay. Were you in uniform?</p> <p>[5] A. Correct.</p> <p>[6] Q. Okay. And were you assigned a patrol car that [7] night?</p> <p>[8] A. A black Chevy Blazer.</p> <p>[9] Q. Okay. Is it marked?</p> <p>[10] A. It's not marked, but I have blue lights and sirens [11] in it.</p> <p>[12] Q. Okay. But it has no decals on the side that say --</p> <p>[13] A. During that time, I had a sticker in the back window [14] that had police K-9. And I also have a blue [15] municipal tag on the back of it.</p> <p>[16] Q. Okay. Otherwise, are there any markings on that [17] vehicle to indicate that it belongs to the [18] Montgomery Police Department?</p> <p>[19] A. I have antennas on the top. My lights can be seen [20] from the outside of the vehicle. So, yeah, it [21] stands out as a police vehicle. The windows are all [22] blacked out and everything in the back.</p> <p>[23] Q. Okay. Now -- I'm sorry. You said it was a</p>

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<p style="text-align: right;">Page 13</p> <p>[1] Suburban? [2] A. No. I want to say a Chevy Blazer. [3] Q. Blue? [4] A. That's what I was driving that night, yeah. [5] Q. Okay. Do you know what year? [6] A. Ninety -- it was a ninety something. I don't know. [7] Q. Okay. Late nineties? [8] A. Late nineties, yeah. [9] Q. Okay. Do you know why it is that you're driving [10] basically an unmarked vehicle? [11] A. That's just the vehicle -- MR. WHITEHEAD: Object to the form. Go [12] ahead. [13] A. Those were the vehicles we were assigned. [14] Q. Okay. Are all K-9 officers assigned unmarked [15] vehicles? [16] A. Correct. [17] MR. WHITEHEAD: Object to the form. [18] Q. Okay. As a matter of fact, there's a K-9 manual [19] that you're given as a K-9 officer, is there not? [20] A. Correct. [21] Q. And it indicates that K-9 officers are given [22] unmarked vehicles, does it not?</p>	<p style="text-align: right;">Page 15</p> <p>[1] Q. Okay. And how did you get dispatched to Arnaud's [2] Quality Meats? [3] A. I was assisting patrol on a call. Which, initially, [4] dispatch patrol is always -- a K-9 unit is a back-up [5] unit to an alarm. I don't remember what unit it [6] was. But I was the back-up unit on that call. [7] Q. Okay. Back-up unit to whom? [8] A. Patrol. [9] Q. Okay. And anyone in particular on patrol? [10] A. I was just on that side of town, so I assisted [11] patrol. [12] Q. You were the closest? [13] A. Correct. [14] Q. Okay. [15] A. I think I was assigned to east side that night. [16] Q. Okay. During your post training, did you receive [17] training in radio operations and communications? [18] A. Correct. [19] Q. Okay. And is there a certain protocol that is to be [20] used by officers in and during their communications [21] over the radio? MR. WHITEHEAD: Object to the form. [22] A. It depends. What -- could you just ask the question</p>
<p style="text-align: right;">Page 14</p> <p>[1] A. Correct. [2] Q. Okay. So you considered the vehicle that you were [3] operating that night to be unmarked; is that [4] correct? MR. WHITEHEAD: Object to the form. [5] A. It was unmarked, correct. But -- I mean, it had the [6] markings that I explained earlier on it. [7] Q. Okay. [8] A. The antennas and the tinted windows and the blue [9] lights. [10] Q. All right. What are the typical duties of a K-9 [11] officer working third shift? [12] A. K-9, our main duties are to assist patrol in [13] apprehending. Our main goal is to apprehend [14] felonies -- felons and also assist patrols on [15] alarms. [16] Q. Okay. [17] A. And felonies would be robberies, burglaries, [18] anything like that. [19] Q. Okay. And do you have a recollection of being [20] dispatched to Arnaud's Quality Meats on the Eastern [21] Boulevard on March 31, 2005? [22] A. Correct.</p>	<p style="text-align: right;">Page 16</p> <p>[1] another way. What do you mean by that? [2] Q. Sure. Is there a certain procedure that you're [3] taught when using radio communications with, say, [4] dispatch? [5] A. Correct. [6] Q. Okay. And are you, during your post training, [7] taught certain codes for different events or alleged [8] crimes? [9] A. Correct. [10] Q. Okay. And are you taught to use those codes in your [11] communications with dispatch? [12] A. Correct. [13] Q. Okay. Did you receive from dispatch any code in [14] regard or reference to Arnaud's Meat that night? [15] A. I did. [16] Q. Okay. And, by the way, if I'm not specific as to [17] time and date, generally, I'm always going to be [18] referring to the events of March 31, 2005. [19] A. Okay. [20] Q. All right. And I know that it happened late at [21] night and maybe some of the events rolled over into [22] the next day, which would have been April the 1st I [23] believe --</p>

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<p style="text-align: right;">Page 17</p> <p>[1] A. Okay.</p> <p>[2] Q. -- 2005. You were telling me earlier that you have</p> <p>[3] a dog actually assigned to you; is that correct?</p> <p>[4] A. Correct.</p> <p>[5] Q. Okay. Is the dog that you had on March the 31st the</p> <p>[6] same dog you have today?</p> <p>[7] A. It is.</p> <p>[8] Q. Okay. And what's that dog's name? Or do you --</p> <p>[9] A. Osko. O-S-K-O.</p> <p>[10] Q. O-S-K-O. And what type of dog is that?</p> <p>[11] A. He's a German Shepherd.</p> <p>[12] Q. German Shepherd. All right. Male?</p> <p>[13] A. Uh-huh.</p> <p>[14] Q. How old is Osko today?</p> <p>[15] A. I want to say he's five.</p> <p>[16] Q. Five. And you've had him for how long?</p> <p>[17] A. I've been in K-9 now for, say, two and a half</p> <p>[18] years. I've had him since then.</p> <p>[19] Q. And he came to you with a certain degree of</p> <p>[20] training; right?</p> <p>[21] A. Correct.</p> <p>[22] Q. Okay. Was Osko doing fieldwork? Was he doing work</p> <p>[23] with another police officer before he was assigned</p>	<p style="text-align: right;">Page 19</p> <p>[1] Q. Okay. So you --</p> <p>[2] A. My next -- my next immediate supervisor would have</p> <p>[3] been Corporal M-A-R-A -- M-O-R-A. I'm sorry.</p> <p>[4] Q. Mora?</p> <p>[5] A. Uh-huh. Mora. He's a senior corporal.</p> <p>[6] Q. I mean -- I'm asking this question, because I really</p> <p>[7] just don't understand because I'm not a police</p> <p>[8] officer. But that night -- let's say if you had to</p> <p>[9] take a break or you needed permission to go for your</p> <p>[10] meal break or something like that, who would you</p> <p>[11] report to? Would you have to ask for permission, or</p> <p>[12] do you do that on your own or what?</p> <p>[13] A. To take a meal break? No. I just get on the radio</p> <p>[14] and take my meal break.</p> <p>[15] Q. What if you needed --</p> <p>[16] A. I'll let dispatch know that I'm about to take my</p> <p>[17] lunch break.</p> <p>[18] Q. Okay. What if you needed permission to do something</p> <p>[19] else? Would you go directly to Caulfield, or would</p> <p>[20] you go to Mora first?</p> <p>[21] A. It'd depend on the circumstance that I needed.</p> <p>[22] Q. Okay. Can you give me an example of when you would</p> <p>[23] go to Mora rather than Caulfield?</p>
<p style="text-align: right;">Page 18</p> <p>[1] to you?</p> <p>[2] A. Yes, sir.</p> <p>[3] Q. Okay. Was he actually doing K-9 patrol before he</p> <p>[4] was assigned to you?</p> <p>[5] A. Yes.</p> <p>[6] Q. Okay. Who was your immediate supervisor the night</p> <p>[7] in question?</p> <p>[8] A. Lieutenant Billy Caulfield.</p> <p>[9] Q. Caulfield?</p> <p>[10] A. Uh-huh.</p> <p>[11] Q. Okay.</p> <p>[12] A. C-A-U-L-F-I-E-L-D.</p> <p>[13] Q. You say he was a lieutenant then?</p> <p>[14] A. Yes.</p> <p>[15] Q. Okay. Did you have -- and your rank at the time was</p> <p>[16] what?</p> <p>[17] A. A police officer.</p> <p>[18] Q. Okay. Did you have any kind of supervisor between</p> <p>[19] Lieutenant Caulfield and yourself at the time?</p> <p>[20] A. I mean, I have -- everyone else in the unit are</p> <p>[21] corporals. Before we -- I mean, that's the chain of</p> <p>[22] command. Corporal -- our sergeant was on military</p> <p>[23] leave, so he wasn't there. And then the lieutenant.</p>	<p style="text-align: right;">Page 20</p> <p>[1] A. Just -- you give me a situation and I'll tell you</p> <p>[2] who I would have gone to.</p> <p>[3] Q. Your wife called on the phone and there's an</p> <p>[4] emergency at the house and she needs you for ten</p> <p>[5] minutes?</p> <p>[6] A. I'd probably let Lieutenant Caulfield know the</p> <p>[7] circumstances on that.</p> <p>[8] Q. Okay. You're riding down the road in the Blazer and</p> <p>[9] you get a flat tire, what do you do?</p> <p>[10] A. I would take that upon myself and change it.</p> <p>[11] Q. Okay. Well, can you name any circumstance where you</p> <p>[12] would have to get permission from Corporal Mora</p> <p>[13] first?</p> <p>[14] A. Well -- I mean, if anything happened -- an incident</p> <p>[15] or something like that happened, I'll notify him and</p> <p>[16] let him know as far as going up the chain on</p> <p>[17] something.</p> <p>[18] Q. Okay. Regarding the radio procedures and the codes</p> <p>[19] that you would use, what would -- if you received a</p> <p>[20] burglary call from dispatch --</p> <p>[21] A. Uh-huh.</p> <p>[22] Q. Well, first of all, does the call just go out</p> <p>[23] generally and then you as a police officer know that</p>

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<p style="text-align: right;">Page 21</p> <p>[1] you're in that area and then you respond to [2] dispatch? Or does dispatch actually call you and [3] say, you're there, I need you to go?</p> <p>[4] A. Patrol, she would do that. But us, we just -- like [5] I said, we back up units. If we're in area, we get [6] en route to the call.</p> <p>[7] Q. Okay. And what's the code for a burglary?</p> <p>[8] A. It's an 11.</p> <p>[9] Q. An 11. Okay. So when you get a call for, let's [10] say, a burglary, and you're arriving at the address [11] in question --</p> <p>[12] A. Uh-huh.</p> <p>[13] Q. -- what by way of radio protocol are you supposed to [14] do once you get there?</p> <p>[15] A. I can either press a button on my computer and it'll [16] show me -- that I've arrived, or I can get on the [17] radio and tell her that I'm 10-17. 10-17 is the [18] code.</p> <p>[19] Q. 10-17 means you've arrived on the scene?</p> <p>[20] A. Correct.</p> <p>[21] Q. Okay. How is -- and, again, back on March 31, 2005, [22] how was Osko kept in your Blazer? Is he by your [23] side? Is he in the back?</p>	<p style="text-align: right;">Page 23</p> <p>[1] A. No.</p> <p>[2] Q. Okay. So was the call -- to whom?</p> <p>[3] A. To patrol.</p> <p>[4] Q. Okay. Just patrol generally?</p> <p>[5] A. Right.</p> <p>[6] Q. Okay. And you responded?</p> <p>[7] A. Right.</p> <p>[8] Q. Okay. And was it a Code 11?</p> <p>[9] A. Right.</p> <p>[10] Q. Okay. And tell me what you did in response to the [11] dispatch call for Code 11.</p> <p>[12] A. I got on the radio, used my unit number, 150, at the [13] time. I told her that I would be en route. I don't [14] know where I was coming from. I can't remember. [15] And I got en route to the call. And I proceeded to [16] the business.</p> <p>[17] Q. Okay. And when you arrived at the business, what's [18] the -- first of all, what was the weather like?</p> <p>[19] A. It had been raining. During the time -- I don't [20] know if it was raining when I was en route to the [21] call or not. That night it had been raining all [22] night. Just a wet night.</p> <p>[23] Q. Okay. And when you arrived at the scene, what's the</p>
<p style="text-align: right;">Page 22</p> <p>[1] A. He's free roam in my truck. He can -- everywhere I [2] go in my truck he can go.</p> <p>[3] Q. Okay.</p> <p>[4] A. He's not -- there's no divider or anything in it. [5] He can -- I mean, he can go all around the truck if [6] he wants to.</p> <p>[7] Q. Okay. Is he kept on a leash at all times?</p> <p>[8] A. Not in the truck, no.</p> <p>[9] Q. Okay. When outside the truck, do you put him on a [10] leash or...</p> <p>[11] A. It depends on -- I mean, why he's out of the truck. [12] It just depends.</p> <p>[13] Q. Okay. On the night in question, were -- was anyone [14] else with you in your vehicle?</p> <p>[15] A. Myself and my partner.</p> <p>[16] Q. Okay. And your partner is Osko?</p> <p>[17] A. Correct.</p> <p>[18] Q. Okay. And did you receive a call from dispatch [19] regarding Arnaud's Meats?</p> <p>[20] A. Correct.</p> <p>[21] Q. All right.</p> <p>[22] A. I assisted patrol on the call.</p> <p>[23] Q. Okay. So the call didn't come directly to you?</p>	<p style="text-align: right;">Page 24</p> <p>[1] -- when you arrived at Arnaud Meats, what's the [2] first thing you saw?</p> <p>[3] A. When I pulled into the business, my normal protocol [4] would be, my training in the academy, you pull into [5] an alarm, you turn your lights off. That way if [6] suspects, or suspect, are there they can't see you [7] coming in. I pulled off of the boulevard on to the [8] service road. I don't know the exact name of the [9] service -- it may be the Northern Boulevard. It's [10] just a service road on the side. I turned my lights [11] off. I noticed a vehicle parked in the parking lot [12] and an unknown subject running back to the vehicle [13] and get into the vehicle -- into the back seat of [14] the vehicle. The vehicle pulled off. I continued [15] to go to the building. I looked over, and I saw the [16] window unsecured. At the time, I didn't know if it [17] was busted or just raised or what it was. I [18] immediately followed the car.</p> <p>[19] Q. Okay. I'd asked you what was the first thing you [20] saw. So the first --</p> <p>[21] A. The car was the first thing I noticed.</p> <p>[22] Q. You noticed the car --</p> <p>[23] A. Correct.</p>

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[1] Q. -- before you noticed the window?
 [2] A. Correct. Because I hadn't made it to the business.
 [3] Q. Okay. And what kind of car was it?
 [4] A. It was a -- don't get me wrong, it's been a while.
 [5] I want to say a Lincoln Town Car.
 [6] Q. Do you know what year?
 [7] A. No. I can't remember it.
 [8] Q. Do you remember the color?
 [9] A. I want to say white. I can't remember exactly, though.
 [10] Q. White?
 [11] A. I want to say white. I can't remember.
 [12] Q. Okay. Definitely a lighter color?
 [13] **MR. WHITEHEAD:** Object to the form.
 [14] A. Correct.
 [15] Q. Okay. You got a Code 11. Is there a specific code for a business alarm going off?
 [16] A. It's an 11 Bravo.
 [17] Q. An 11 Bravo?
 [18] A. Bravo.
 [19] Q. Okay. And does that indicate whether or not it's a silent or audible alarm?
 [20] A. No.

[1] Q. Okay. Which direction was the Town Car facing? Let me -- we're talking about the parking lot next to Arnaud's Meats; right?
 [2] A. Yes, sir.
 [3] Q. All right. As a matter of fact, why don't we draw ourselves a diagram.
 [4] A. Okay.
 [5] Q. Draw -- you know, and I understand everybody -- nobody's a perfect artist, but -- and nobody's going to hold you to the art of scale. But, if you would, just draw Arnaud's Meats for me --
 [6] A. (Witness complies).
 [7] Q. -- and where the window that was open or broken was.
 [8] A. The window would be on the side right there.
 [9] Q. And then the Eastern Boulevard and the service road.
 [10] A. That would be the service road.
 [11] **MR. WHITEHEAD:** Yeah. Let's label this stuff a little. Write Arnaud's up top and window where the star is.
 [12] Q. And Wares Ferry.
 [13] A. (Witness complies).

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[1] Q. Okay. When you drove up, were you able to hear any kind of alarm going off?
 [2] A. Yes.
 [3] Q. You were? Okay. And do you have any idea how long that alarm had been going off?
 [4] A. No. Dispatch didn't -- I mean, we -- we don't ever know that.
 [5] Q. Okay. From the time that you received the Code 11 from dispatch until you arrived at Arnaud's Meats, how much time do you think lapsed?
 [6] A. I want to say maybe three to five minutes at the most.
 [7] Q. Three to five minutes?
 [8] A. It didn't take that long.
 [9] Q. Okay. And you --
 [10] A. But we'll just say no more than ten minutes. We'll just put it that way for the Record.
 [11] Q. Okay. That's fine. I mean, if you don't know, you just don't know.
 [12] And you don't remember exactly where you were when you -- when you received the call from dispatch?
 [13] A. I can't recall exactly where I was coming from, no.

[1] Q. Okay. And -- I believe that's correct. And from which direction did you come when you were dispatched for the call?
 [2] A. I was coming in off of this way turning in right there.
 [3] Q. Okay. So you were coming off of Wares Ferry?
 [4] A. I was -- no. I was coming off the Eastern Boulevard -- well, the Northern Boulevard. If that's the way going back south, I was coming this way.
 [5] Q. So you --
 [6] A. I was coming in that way. And I was getting over -- I was in the turning lane to turn into the business.
 [7] Q. Yes, sir.
 [8] A. And I turned in that way.
 [9] Q. All right. And -- so you turned in on the side nearest the window?
 [10] A. Correct.
 [11] Q. Okay. And where was -- I'm going to say Lincoln Town Car. Even though I understand you weren't absolutely sure it was a Lincoln Town Car.
 [12] A. The car was parked, I would say, about right there facing -- the arrow is pointing the way the car was

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<p>Page 29</p> <p>[1] facing.</p> <p>[2] Q. Okay. And where exactly was this suspect that you saw?</p> <p>[3] A. Okay. When I was turning in, I'd say about maybe there.</p> <p>[4] Q. Approximately halfway in between the car and Arnaud Meats?</p> <p>[5] A. Right. Coming from that direction.</p> <p>[6] Q. Do you want to label that suspect?</p> <p>[7] A. (Witness complies).</p> <p>[8] Q. Okay. And approximately where were you when you could first hear the alarm?</p> <p>[9] A. Well, when I drove up to the business, when the car pulled off, that's when I heard the alarm. When I was coming up to the business.</p> <p>[10] Q. Okay. Describe for me the individual that you saw walking away from the window.</p> <p>[11] A. It was an unknown black male with dark pants and a -- it was either a gray or white T-shirt.</p> <p>[12] Q. Okay. Was it this gentleman here (indicating)?</p> <p>[13] A. Correct.</p> <p>[14] Q. And you're one hundred percent positive that it was this gentleman here?</p>	<p>[1] can tell me?</p> <p>[2] A. In feet?</p> <p>[3] MR. WHITEHEAD: Object to the form.</p> <p>[4] A. Yeah. I don't know the exact -- I'm sorry.</p> <p>[5] Q. Is there another unit of measurement that you prefer to use. Maybe --</p> <p>[6] A. I'd say maybe from there to there (indicating) -- we can use a football field. I'd say maybe thirty yards, if that.</p> <p>[7] Q. Okay.</p> <p>[8] A. Twenty, thirty yards.</p> <p>[9] Q. Okay. And you said you couldn't remember as you were driving to Arnaud's Meats what the weather was like. Can you remember what the weather was like as you were actually driving up into the parking lot at Arnaud's Meats?</p> <p>[10] A. It -- I know it wasn't raining. It was wet.</p> <p>[11] Q. Okay. And do you remember the time?</p> <p>[12] A. No.</p> <p>[13] Q. Okay. Can you recall whether or not it was before or after midnight?</p> <p>[14] A. I don't recall.</p> <p>[15] Q. Okay. Did you make any radio call back to dispatch</p>
<p>Page 30</p> <p>[1] A. Correct.</p> <p>[2] Q. Okay.</p> <p>[3] MR. NELMS: And I'm pointing at Mr. Hogan.</p> <p>[4] Q. Can you tell me, then, what the suspect did?</p> <p>[5] A. Okay. As I said earlier, he ran back to the vehicle and got into the back passenger side of the car.</p> <p>[6] Q. Back right?</p> <p>[7] A. Passenger, right. Back passenger side.</p> <p>[8] Q. Okay. And did you have -- you said earlier that you're trained when you come upon a Code 11 you keep your lights off -- your emergency lights off?</p> <p>[9] A. My headlights and everything.</p> <p>[10] Q. Everything?</p> <p>[11] A. Right.</p> <p>[12] Q. Okay. Did there come a point in time when you turned your lights on?</p> <p>[13] A. Right. When the car left the business, I turned my lights on then, because I knew I was going to try to stop the car.</p> <p>[14] Q. Okay. What was the approximate distance for, let's say, the front bumper of this car and the side here on the northern end of Arnaud's Meat in feet, if you</p>	<p>Page 32</p> <p>[1] when you arrived on the scene?</p> <p>[2] A. I don't recall that either. I don't -- I don't know if other units were on the radio. I don't know if I got -- I can't remember.</p> <p>[3] Q. Okay. Did you maybe call 10-17?</p> <p>[4] A. I don't know if I got it on the radio or if I did it on my computer.</p> <p>[5] Q. Okay. Did you at any point in time indicate that you -- after you arrived on the scene, that you saw the car?</p> <p>[6] A. I can't recall if I immediately said that, because I was trying to keep watch on the car. And -- I know when I -- when I attempted to stop the car after the car left the area, I did get on the radio because I called for more units to come assist me.</p> <p>[7] Q. Okay. Do you recall when you first made a call to dispatch in reference to Arnaud's Meats or the suspect?</p> <p>[8] A. I don't recall.</p> <p>[9] Q. Okay. And did you make -- okay. So the first thing that you can recall doing as far as radio communications is calling for backup?</p> <p>[10] A. Correct.</p>

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<p style="text-align: right;">Page 33</p> <p>[1] Q. Okay. And what exactly did you say, if you recall? [2] MR. WHITEHEAD: Object to the form. [3] A. I don't know exactly what I said, but I advised them [4] what I had. I told them I had a vehicle that left [5] the business. I was approaching the vehicle and the [6] vehicle fled. I asked for more units to come [7] assist -- come and assist me. I don't know if I [8] said it that way or not. [9] Q. Okay. Well, let's talk about it for just a second. [10] Now, you said that the vehicle fled. Using the [11] little diagram that we've made here -- [12] A. Okay. [13] Q. -- tell me -- [14] A. Here's the trailer park. I just -- the trailer park [15] is all this right here (indicating). The vehicle [16] pulled out, and they pulled right about there. [17] That's going to be my vehicle. I'll label it SV for [18] suspect vehicle. [19] Q. Okay. [20] A. And PV for police vehicle. [21] Q. Okay. [22] A. About right there, that's where I stopped them. I [23] exited my vehicle. I got about maybe right there to</p>	<p style="text-align: right;">Page 35</p> <p>[1] Q. I mean, it's pretty expansive. That's my [2] characterization. [3] So were you -- let's see. That would be to the [4] west is where the trailer park is; right? [5] A. Right. West, yeah. [6] Q. If you can -- [7] A. To the west of the boulevard, yeah. Right. [8] Q. If you can -- [9] A. Uh-huh. [10] Q. -- considering that entire -- that entire parking [11] lot -- and I'll guess it's several acres. How deep [12] into the parking lot were you at this time when you [13] attempted to initiate the stop? [14] A. I'm -- I want to say the street's Barberry. [15] Q. Yes, sir. [16] A. Wherever Barberry is in there. I don't know. Like [17] I said, I was watching the car. I don't know how [18] many streets I went over and up and all that stuff. [19] I don't know. [20] Q. So you actually had left the parking lot and were on [21] the surface streets in the trailer park when you [22] initiated the stop? [23] A. We're in the trailer park, right.</p>
<p style="text-align: right;">Page 34</p> <p>[1] theirs. They immediately fled the area. [2] Q. Okay. So you pulled in along behind them. Did you [3] initiate your emergency lights? [4] A. That's when I initiated my emergency lights, and [5] they -- they pulled over and stopped. [6] Q. Okay. Did you, at this time -- is this still in the [7] parking lot, or do you consider this still in the [8] parking -- [9] A. I ran out of room on the paper. No. It's -- it's [10] in the trailer park behind the store. It's a [11] trailer park behind the store. And whatever street [12] that is in the -- I don't know. I think -- I want [13] to say Barberry (phonetic) maybe. Barberry Street [14] or Barberry Drive. [15] Q. Okay. [16] A. I'm not sure. [17] Q. Well -- I'm familiar with the parking lot. I assume [18] you're familiar with the parking lot. It's a big [19] parking lot. [20] A. Correct. [21] Q. I mean, like the type you would see in front of a [22] Bruno's or something. [23] A. Yeah.</p>	<p style="text-align: right;">Page 36</p> <p>[1] Q. Okay. Which direction are you headed once you're in [2] the trailer park, and when you attempt to initiate [3] the stop for the first time? [4] A. That's why I have the car facing that way. [5] Q. All right. So you were facing north? [6] A. Right. [7] Q. All right. So you had turned onto one of the [8] streets inside the trailer park heading north when [9] you attempted to stop them? [10] A. When they stopped. [11] Q. Okay. And they came to a stop? [12] A. Right. [13] Q. Okay. Were you able to have visual contact with any [14] of the suspects at the time? [15] A. No. Like I said, I was approaching the vehicle. I [16] never made it up to the vehicle when the vehicle [17] fled. [18] Q. Were you able to count the number of people in the [19] car? [20] A. Not at that time, no. [21] Q. Okay. Did you have any idea -- for instance, did [22] you know there was more than one? [23] A. I knew it was more than one, right. Because the guy</p>

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<p>Page 37</p> <p>[1] I saw get back in got in the back seat. So it had [2] to be more than one.</p> <p>[3] Q. Okay. And which direction did they go after --</p> <p>[4] A. After that they -- it's another street that runs [5] back up. They were coming back this way. Coming [6] back towards the business. And they made that -- [7] that would be a left. And they came back out and we [8] went around the business onto Wares Ferry Road.</p> <p>[9] Q. All right. So they went back around, hit the [10] service road --</p> <p>[11] A. Yeah. Well, I -- I don't know -- I don't think we [12] came all the way out to the service road. If you [13] know the parking lot, the big lot goes all the way [14] back out.</p> <p>[15] Q. Yeah.</p> <p>[16] A. So they went -- I know we did pass -- I'm sorry. We [17] passed the business and went back around front and [18] went back around and went out to Wares Ferry.</p> <p>[19] Q. Okay. And when you hit Wares Ferry Road, which [20] direction of travel did you take?</p> <p>[21] A. We were going this way (indicating).</p> <p>[22] Q. West. Which is towards town?</p> <p>[23] A. Right.</p>	<p>[1] Q. Okay. If you know, if you made such a [2] communication -- and, I believe, you said already [3] you don't recall. That's right?</p> <p>[4] A. Correct.</p> <p>[5] Q. Is that communication through your in-car computer [6] recorded in any way?</p> <p>[7] A. I'm not sure.</p> <p>[8] Q. Okay.</p> <p>[9] A. It's not -- it's not an actual communication type [10] deal. It's just I press a button and it will show [11] me 10-17 or 10-08 or what -- I mean, it's not a [12] conversation.</p> <p>[13] Q. I understand.</p> <p>[14] A. I can't -- I can't talk to the computer and tell it [15] what I want it to tell the dispatcher, no.</p> <p>[16] Q. But you press a function key?</p> <p>[17] A. Right.</p> <p>[18] Q. And that information, whatever --</p> <p>[19] A. It's sent to her. And it will show her that I'm [20] there, right.</p> <p>[21] Q. At dispatch?</p> <p>[22] A. Right.</p> <p>[23] Q. Okay. Regarding this lawsuit, other than</p>
<p>Page 38</p> <p>[1] Q. Okay. And tell me about any radio communications [2] that you had that you were -- can recall from when [3] you attempted to initiate the stop until you hit [4] Wares Ferry Road?</p> <p>[5] A. When I attempted to initiate the stop, I told her [6] what I had. When they pulled off, that's when I -- [7] I know I got on radio. I told her I had a vehicle [8] that just pulled off from me. I asked for more [9] units to come and assist me. I knew right then they [10] were -- they were going to refuse to stop. We got [11] onto Wares Ferry Road, I asked for a unit. I gave [12] her my location, and I told her the speed and where [13] we were going. And, at that time, other units got [14] on the radio and let her know that they were en [15] route to back me up.</p> <p>[16] Q. Okay. Regarding the -- you said there's two forms [17] of communication that you can have. One is through [18] dispatch on your radio, and the other is through [19] your in-car computer system?</p> <p>[20] A. Correct.</p> <p>[21] Q. Okay. And you said you can reach down and press a [22] button; right?</p> <p>[23] A. Right.</p>	<p>Page 40</p> <p>[1] conversations that you've had with your counsel, [2] your legal counsel --</p> <p>[3] A. Uh-huh.</p> <p>[4] Q. -- since the night of the incident --</p> <p>[5] A. Uh-huh.</p> <p>[6] Q. -- have you talked to any other person about the [7] facts surrounding the arrest of Chad Hogan?</p> <p>[8] A. What do you mean, any other person? I mean, besides [9] counsel? I've talked to internal affairs.</p> <p>[10] MR. WHITEHEAD: Let me tell you this, too. [11] Any conversation that you had with the other [12] defendants while we were all here together --</p> <p>[13] THE WITNESS: Right.</p> <p>[14] MR. WHITEHEAD: Because I represent all of [15] you. Don't even talk about anything about [16] that.</p> <p>[17] THE WITNESS: Right.</p> <p>[18] A. Besides that, no. Besides with my counsel and the [19] other defendants, no.</p> <p>[20] Q. (By Mr. Nelms) Okay. And I believe you said that [21] Lieutenant Caulfield is a supervisor?</p> <p>[22] A. Correct.</p> <p>[23] Q. He's also a defendant; correct?</p>

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<p style="text-align: right;">Page 41</p> <p>[1] A. Correct.</p> <p>[2] Q. Okay. So have you had meetings with your lawyers where Lieutenant Caulfield was present?</p> <p>[3] MR. WHITEHEAD: Object to the form. And don't answer that. That's the -- anything that we did is going to be privileged about meetings we had or details that who was present.</p> <p>[4] Q. Without telling me the subject matter that was discussed, have you had any meetings with your counsel where Lieutenant Caulfield was present?</p> <p>[5] MR. WHITEHEAD: You can answer that.</p> <p>[6] A. Yes.</p> <p>[7] Q. How many?</p> <p>[8] A. I don't know. I don't recall.</p> <p>[9] Q. More than one?</p> <p>[10] A. Yes.</p> <p>[11] Q. Less than six?</p> <p>[12] A. Probably less than six, yes, sir.</p> <p>[13] Q. Okay.</p> <p>[14] A. I don't recall. I mean, I don't know the exact number.</p> <p>[15] Q. Okay. Was Chief Baylor at any of those meetings?</p>	<p style="text-align: right;">Page 43</p> <p>[1] Q. Okay. Tell me about the substance of those -- that conversation.</p> <p>[2] A. I mean, I had to tell him what I had. I mean, he knew -- he was listening to the radio. And I kept him up to date on the circumstances of the arrest and everything.</p> <p>[3] Q. Okay. What would he have heard on the radio?</p> <p>[4] MR. WHITEHEAD: Object to the form.</p> <p>[5] A. He would have heard the radio traffic. He's assigned the same radio I am. So all radio traffic that I can hear, he can hear, also.</p> <p>[6] Q. Okay. Now, I believe you said that you turned on to Wares Ferry Road and headed towards downtown, which we believe is west; is that correct?</p> <p>[7] A. Yes.</p> <p>[8] Q. Okay. Pick up from there and tell me what happened.</p> <p>[9] A. As I said, I requested more units to come assist me. I want to say the pursuit may have lasted maybe five minutes. Ten minutes at the most.</p> <p>[10] Q. Okay.</p> <p>[11] A. I don't know the exact name of the streets they turned on to. But the vehicle eventually wrecked.</p>
<p style="text-align: right;">Page 42</p> <p>[1] A. No.</p> <p>[2] MR. WHITEHEAD: Stop. This is -- how many meetings I've had with my client is just as privileged as what the substance of the conversation was. If you disagree, so be it. But I'm going to instruct him not to answer any more questions about how many meetings we had, or who was at the meetings, or anything like that. It's privileged. I'm going to instruct him not to answer any further questions on that?</p> <p>[3] Q. Are you going to answer the question?</p> <p>[4] A. No.</p> <p>[5] Q. Did you ever have any conversation with Lieutenant Caulfield outside the presence of your counsel in regard to any matters related to Chad Hogan?</p> <p>[6] A. No. Not that I can recall, no.</p> <p>[7] Q. Okay. Any conversations with Lieutenant Caulfield on the night of March the 31st in regard to the arrest of Chad Hogan?</p> <p>[8] A. Correct. He's my supervisor.</p> <p>[9] Q. So you did have a conversation with him that night?</p> <p>[10] A. That night, yes.</p>	<p style="text-align: right;">Page 44</p> <p>[1] Q. Okay. What were they traveling at a high rate of speed?</p> <p>[2] A. Yes, sir.</p> <p>[3] Q. Okay. Did they run any stop signs?</p> <p>[4] A. Yes, sir.</p> <p>[5] Q. Okay.</p> <p>[6] A. Well, there's no stop signs on Wares Ferry Road.</p> <p>[7] Q. All right.</p> <p>[8] A. In the neighborhood, I don't recall. I don't know if they ran any stop signs or not.</p> <p>[9] Q. Okay. On Wares Ferry Road did they run any traffic lights?</p> <p>[10] A. There's no traffic lights --</p> <p>[11] Q. Okay.</p> <p>[12] A. -- in the area that we were traveling.</p> <p>[13] Q. All right. But they did travel at a high rate of speed?</p> <p>[14] A. Correct.</p> <p>[15] Q. All right. Did they exceed the speed limit at any time?</p> <p>[16] A. Correct.</p> <p>[17] Q. Okay. Did they cross over the center line at any time?</p>

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<p style="text-align: right;">Page 45</p> <p>[1] A. I can't recall that. I don't know. [2] Q. Okay. Did they fail to use turn signals at any time? [3] A. Correct. [4] Q. Okay. Do you recall exactly where the wreck occurred? [5] A. That's what I said. I can't remember the street names. [6] Q. Okay. If I told you the report said Warenwood, would that refresh your recollection? [7] A. If that's what my report says, yes, sir. [8] Q. Okay. Well, not what your report says, but what do you remember? Do you remember it being Warenwood? [9] A. That's what I'm telling you. I can't remember the street name. [10] Q. Okay. That's fine. Well, tell me about the wreck. I mean, exactly how it occurred, if you know. [11] A. Well, the vehicle wrecked into someone's privacy fence in their backyard. The passenger side of the vehicle was up against the fence. And the occupants of the vehicle immediately bailed from the vehicle. [12] Two exited the front driver's side, because they couldn't get out of the passenger's side. And the</p>	<p style="text-align: right;">Page 47</p> <p>[1] A. When it wrecked -- maybe thirty yards when it wrecked. [2] Q. Okay. And tell me, to the best of your recollection, exactly what you did after the wreck. [3] A. After the wreck, when they bailed -- the driver, the passenger, and the rear occupant of the vehicle bailed. I jumped out of the vehicle as well. And I chased them by foot to a fence -- another fence in the backyard. [4] Q. Let me interrupt you. Where did you park or come to rest? [5] A. The car went in the backyard and hit the fence, and I stayed on the street, whatever street it was. [6] Q. Okay. And you jumped out of your car? [7] A. Uh-huh. [8] Q. Your vehicle? [9] A. Uh-huh. [10] Q. Osko went with you? [11] A. Correct. [12] Q. All right. Was he leashed or unleashed? [13] A. He was unleashed. [14] Q. Okay. And you proceeded to go after the fleeing suspect?</p>
<p style="text-align: right;">Page 46</p> <p>[1] one in the back seat, he exited the rear seat of the vehicle -- rear driver's side door. [2] Q. Okay. And did he -- was that Mr. Hogan? [3] A. Correct. [4] Q. Okay. So if I'm understanding you right, he exited -- he was on the left rear side or the driver's side in the rear of the vehicle. But he exited on the passenger's side; is that correct? [5] A. Say that again. [6] Q. Mr. Hogan was in the back seat; is that correct? [7] A. Right. [8] Q. Okay. Did he exit from the driver's side or the passenger's side? [9] A. The driver's side. [10] Q. He was able to -- [11] A. The back seat. He couldn't get out of the passenger's side, because they wrecked into a fence. [12] Q. Oh, okay. I'm sorry. I misunderstood you. I thought it was the driver's side that was on the -- [13] A. No. The passenger's side. [14] Q. Oh, I'm sorry. Okay. [15] How close behind the Lincoln Town Car were you when it had the accident?</p>	<p style="text-align: right;">Page 48</p> <p>[1] A. Correct. [2] Q. Okay. And pick up from there. [3] A. Okay. I kept my eye on the back passenger, because I knew he was the one that got in the vehicle. The two front people exited first. The back guy, he was the last one out. I chased him to the fence. The front guy went over the fence first and he went down into -- there was a drainage ditch over there. The other guy, he went to the right. And the last guy -- when we were running to the fence, before he can get over -- myself and my partner, we were pretty close to him. That's when he turned and he screamed. I don't know if it was in fear or what it was, but he turned -- turned and yelled (indicating sound) and he proceeded over the fence and he went to the left. [4] Q. Okay. Which one of these individuals was Mr. Hogan? [5] A. That -- the last one. [6] Q. Okay. And just -- I'm going to ask you, please, if you'll just use Mr. Hogan's name so we'll be able to identify which -- [7] A. Okay. That's fine. [8] Q. -- one we're talking about. And I'm really mostly</p>

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<p style="text-align: right;">Page 49</p> <p>[1] concerned about Mr. Hogan. The other suspects are [2] not that important to me.</p> <p>[3] A. That's fine.</p> <p>[4] Q. But the other suspects left the area?</p> <p>[5] A. All three attempted to leave the area, but all three [6] went opposite directions.</p> <p>[7] Q. All right.</p> <p>[8] A. Right.</p> <p>[9] Q. Now, were there four people total?</p> <p>[10] A. I only saw three.</p> <p>[11] Q. Okay.</p> <p>[12] A. I only pursued three on foot.</p> <p>[13] Q. Okay. And that includes Mr. Hogan?</p> <p>[14] A. Correct.</p> <p>[15] Q. So it was Mr. Hogan --</p> <p>[16] A. Mr. Hogan was the third -- the last subject to get over the fence.</p> <p>[17] Q. All right. And tell me about your pursuit of Mr. Hogan.</p> <p>[18] A. Okay. When I got to the fence, as I stated, Mr. Hogan, he turned around and he yelled -- he yelled. Like I said, I don't know if it was at my dog or in fear. He went left. I immediately held</p>	<p style="text-align: right;">Page 51</p> <p>[1] that night.</p> <p>[2] Q. Okay.</p> <p>[3] A. And he was apprehended by another dog. Greg is the [4] one that apprehended Mr. Hogan.</p> <p>[5] Q. The dog's name is Greg?</p> <p>[6] A. Greg, right.</p> <p>[7] Q. G-R-E-G?</p> <p>[8] A. Right.</p> <p>[9] Q. And who is the officer?</p> <p>[10] A. Corporal Mora. M-O-R-A.</p> <p>[11] Q. Okay. And do you know exactly where it is that [12] Mr. Hogan was apprehended?</p> <p>[13] A. No. Not exactly, no.</p> <p>[14] Q. Okay. Do you have, at the time, a video camera in [15] your unit?</p> <p>[16] A. No.</p> <p>[17] Q. Okay. At the time, did Corporal Mora have a video camera in his unit?</p> <p>[18] A. No.</p> <p>[19] Q. Do you know who Kirk Pelham is?</p> <p>[20] A. He was a detective, yes, sir.</p> <p>[21] Q. Do you have any idea as to whether or not Kirk Pelham had a video camera in his vehicle?</p>
<p style="text-align: right;">Page 50</p> <p>[1] my spot, which I'm trained to do. And I called for [2] other units to get in the area. Some more K-9 units [3] got in the area. And the spot that I last saw the [4] subject run is where we began to track.</p> <p>[5] Q. Okay. Then that happened?</p> <p>[6] A. The track started, and Mr. Hogan was apprehended in [7] a backyard not far from where I last saw him.</p> <p>[8] Q. Okay. Are you leaving anything out?</p> <p>[9] A. No.</p> <p>[10] Q. Okay. How is it that Mr. Hogan came to be [11] apprehended?</p> <p>[12] A. He was apprehended by a K-9 --</p> <p>[13] Q. Okay.</p> <p>[14] A. By a K-9 dog.</p> <p>[15] Q. Osko got him?</p> <p>[16] A. Not Osko. It was another dog --</p> <p>[17] Q. Okay.</p> <p>[18] A. -- that apprehended Mr. Hogan.</p> <p>[19] Q. All right. Was there another K-9 unit in the area?</p> <p>[20] A. That's what I said. I held my spot, and I called [21] for another K-9 unit to come and assist on the [22] track. Due to it been raining and due to multiple [23] suspects, we used two dogs. We did a dual track</p>	<p style="text-align: right;">Page 52</p> <p>[1] A. I don't know.</p> <p>[2] Q. You don't know? Okay. Have you had an opportunity [3] to see any videotape related in any way to the [4] arrest of Chad Hogan?</p> <p>[5] A. No.</p> <p>[6] Q. Okay. Have you had an opportunity to listen to any [7] audiotape of radio transmissions related to the [8] arrest of Chad Hogan?</p> <p>[9] A. No.</p> <p>[10] Q. All right. Tell me about any radio transmissions [11] that you recall that night after you called dispatch [12] informing them that you had -- that there had been a [13] wreck and that the suspects were on foot.</p> <p>[14] A. I mean, there were several. Like I said, I called [15] for more units to come in the area and assist me. [16] We let them know that K-9 was on the ground so they [17] can stay off and they won't accidentally get bit by [18] one of our dogs. When the subject was in custody, [19] I'd -- I wasn't the one that apprehended him, so I [20] wasn't the one to say that he was in custody over [21] the radio. I mean, I can't recall everything that I [22] said on the radio that night.</p> <p>[23] Q. I understand. I'm just asking you to tell me what</p>

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<p style="text-align: right;">Page 53</p> <p>[1] you can recall.</p> <p>[2] A. After that -- I mean, it was just general traffic.</p> <p>[3] Just normal radio traffic.</p> <p>[4] Q. Okay. Well, tell me about what you recall from the</p> <p>[5] general radio traffic that you heard.</p> <p>[6] MR. WHITEHEAD: Object to the form.</p> <p>[7] A. I mean, I advised them what we had. I told them</p> <p>[8] what we were doing. When we got done, we got off</p> <p>[9] the ground. I can't -- I mean, I can't recall</p> <p>[10] anything that I said. I can't remember, you know,</p> <p>[11] everything that I said that night.</p> <p>[12] Q. Okay. I understand, Officer. I -- I'm not asking</p> <p>[13] what you said over the radio -- what transmissions</p> <p>[14] you issued over the radio. I'm asking what you can</p> <p>[15] recall --</p> <p>[16] A. Hearing on the radio?</p> <p>[17] MR. WHITEHEAD: Object to the form.</p> <p>[18] Q. Yes.</p> <p>[19] A. Now, that -- no, I can't. It's just -- we have a</p> <p>[20] hundred or so people talking on the radio. I</p> <p>[21] can't -- I don't know.</p> <p>[22] Q. Okay. Anything specific to the Code 11 or the</p> <p>[23] arrest of Chad Hogan?</p>	<p style="text-align: right;">Page 55</p> <p>[1] Q. Okay.</p> <p>[2] MR. NELMS: What's the basis for your</p> <p>[3] objection? This last one.</p> <p>[4] MR. WHITEHEAD: Do what, now?</p> <p>[5] MR. NELMS: I'm asking you what the basis</p> <p>[6] for your objection is.</p> <p>[7] MR. WHITEHEAD: Because I think it was</p> <p>[8] confusing and speculative as to who said what</p> <p>[9] on the radio. He -- once he said he didn't</p> <p>[10] know. Asked and answered and speculative.</p> <p>[11] MR. NELMS: All right.</p> <p>[12] Q. Without speculating, is it likely that it was the</p> <p>[13] officer on the scene at Arnaud's Quality Meats?</p> <p>[14] A. Possibly.</p> <p>[15] MR. WHITEHEAD: Object to the form. Same</p> <p>[16] objection.</p> <p>[17] Q. Do you know a Lieutenant Randy Jones?</p> <p>[18] A. Yes.</p> <p>[19] Q. Okay. And who is Lieutenant Jones?</p> <p>[20] A. At the time, he -- I think he's retired now. At the</p> <p>[21] time, he was a commander in detective division.</p> <p>[22] Q. Okay. Was a supervisor of yours?</p> <p>[23] A. No.</p>
<p style="text-align: right;">Page 54</p> <p>[1] MR. WHITEHEAD: Object to the form.</p> <p>[2] A. I remember him saying that we -- we had a confirmed</p> <p>[3] burglary. I remembered hearing that.</p> <p>[4] Q. Who said that?</p> <p>[5] A. I can't recall who said it.</p> <p>[6] Q. But someone said you had a confirmed burglary?</p> <p>[7] A. Yes. They said that the window -- at the time, they</p> <p>[8] said the window was forced.</p> <p>[9] Q. Okay.</p> <p>[10] A. I don't know who said it, but someone said that.</p> <p>[11] Q. All right.</p> <p>[12] A. I mean, that's basically it. What I recall hearing.</p> <p>[13] Q. All right. Do you have an understanding as to who</p> <p>[14] said that?</p> <p>[15] MR. WHITEHEAD: Object to the form.</p> <p>[16] A. No, I don't know. That's what I just said. I don't</p> <p>[17] know who said it.</p> <p>[18] Q. I mean, would it be the officer on the scene, or</p> <p>[19] would it have been --</p> <p>[20] A. More than -- if someone said the window was</p> <p>[21] forced --</p> <p>[22] MR. WHITEHEAD: Object to the form.</p> <p>[23] A. -- it was someone on the scene, yes, sir.</p>	<p style="text-align: right;">Page 56</p> <p>[1] Q. Okay. But in the chain of command, he was a</p> <p>[2] superior officer?</p> <p>[3] A. Correct.</p> <p>[4] Q. Okay. Have you had an opportunity to talk to</p> <p>[5] Lieutenant Jones at any time about the arrest of</p> <p>[6] Chad Hogan?</p> <p>[7] A. No.</p> <p>[8] Q. Have you talked to Lieutenant Jones at any time</p> <p>[9] about what you recall or saw as you were there at</p> <p>[10] Arnaud's?</p> <p>[11] A. I never talked to Lieutenant Jones.</p> <p>[12] Q. Okay. Who is Major West?</p> <p>[13] A. He's Lieutenant Jones' boss.</p> <p>[14] Q. Okay.</p> <p>[15] A. He's the commander.</p> <p>[16] Q. All right. Have you, since March 31, 2005, had a</p> <p>[17] conversation with Major West regarding the events</p> <p>[18] surrounding the arrest of Chad Hogan?</p> <p>[19] A. No.</p> <p>[20] Q. Okay. Who is Sergeant Tatum?</p> <p>[21] A. He's a supervisor in the detective division.</p> <p>[22] Q. Okay. Have you had any conversations with Sergeant</p> <p>[23] Tatum since March 31, 2005 regarding the arrest of</p>

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<p style="text-align: right;">Page 57</p> <p>[1] Chad Hogan?</p> <p>[2] A. No.</p> <p>[3] MR. NELMS: Give me just a second.</p> <p>[4] (Brief recess.)</p> <p>[5] Q. When you were driving up on the scene at Arnaud's Quality Meats, did you have -- you said it was -- it had been raining, but you don't think it was raining at the time.</p> <p>[6] A. Right.</p> <p>[7] Q. Okay. And the streets were wet?</p> <p>[8] A. Right.</p> <p>[9] Q. Okay. And you had your lights off --</p> <p>[10] A. Right.</p> <p>[11] Q. -- as you drove up at Arnaud's Quality Meats?</p> <p>[12] Where exactly were you when you turned your lights off?</p> <p>[13] A. I was turning off of the boulevard.</p> <p>[14] Q. Okay. So you were, like, in that median area that you --</p> <p>[15] A. In the general area where I could see the business, right.</p> <p>[16] Q. Okay. And is that -- to the best that you remember, that night was the parking lot lit?</p>	<p style="text-align: right;">Page 59</p> <p>[1] A. When I was driving past it.</p> <p>[2] Q. Okay. And you don't recall whether your windows were up or down at the time?</p> <p>[3] A. If I heard the alarm, my window was down.</p> <p>[4] Q. Down?</p> <p>[5] A. Yes.</p> <p>[6] Q. Okay. What did it sound like?</p> <p>[7] A. It sounded like a burglar alarm.</p> <p>[8] Q. Was it a chirping sound?</p> <p>[9] A. I can't recall that.</p> <p>[10] Q. Okay. You are familiar with the different sounds that alarms could make?</p> <p>[11] A. Yes, sir.</p> <p>[12] Q. Some of them make a shrieking sound. Some of them make a ringing sound. Some of them make a whistling sound. You can't recall --</p> <p>[13] A. I can't recall, no.</p> <p>[14] Q. -- or describe in any way?</p> <p>[15] A. No.</p> <p>[16] Q. Okay. If you were to make a call in to dispatch while you were in the proximity of Arnaud's Meats, to the best of your knowledge, would that radio communication have picked up the sound of the alarm</p>
<p style="text-align: right;">Page 58</p> <p>[1] A. I can't recall.</p> <p>[2] Q. Okay. Do you have a civilian radio in your vehicle? Or that night did you have a civilian radio in your vehicle?</p> <p>[3] A. What do you mean?</p> <p>[4] Q. I mean a regular am/fm radio?</p> <p>[5] A. Yes, sir.</p> <p>[6] Q. Did you have it on or off?</p> <p>[7] A. I can't remember.</p> <p>[8] Q. Okay. Do you -- do you patrol with your civilian radio on at times?</p> <p>[9] A. Sometimes. It depends on what's on the radio.</p> <p>[10] Q. Okay. When you drove up to Arnaud's Meats, did you have your windows rolled up or rolled down?</p> <p>[11] A. I can't remember that either.</p> <p>[12] Q. Okay. Where were you when -- I believe you said earlier that you could hear the alarm going off from the business; is that correct?</p> <p>[13] A. When I drove to the business, yes, I heard it.</p> <p>[14] Q. Where approximately were you in reference to the building when you first heard the alarm?</p> <p>[15] A. Maybe about twenty to thirty feet from it.</p> <p>[16] Q. Okay.</p>	<p style="text-align: right;">Page 60</p> <p>[1] going off?</p> <p>[2] A. It depends on -- if I would have been where I was when I heard it, yes, sir.</p> <p>[3] Q. Okay. When you first made your call to report that you were 10-17, do you believe you were close enough to Arnaud's Meats that the alarm could have been picked up on your dispatch transmission?</p> <p>[4] A. I can't remember.</p> <p>[5] Q. Okay. Can't remember.</p> <p>[6] You stated earlier that you and Osko stayed at the scene of the accident as the suspects fled; is that correct?</p> <p>[7] A. No.</p> <p>[8] Q. Okay. Help me out. You -- after the accident, you said you were taught to hold your ground.</p> <p>[9] A. The last spot I saw him, right.</p> <p>[10] Q. Oh, okay.</p> <p>[11] A. Which was when he hopped the fence.</p> <p>[12] Q. All right. So you were standing at the fence?</p> <p>[13] A. Right.</p> <p>[14] Q. Okay. Where was that in relation to the car -- excuse me -- the suspect's car?</p> <p>[15] A. The -- it was in the -- all of it's in the</p>

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<p style="text-align: right;">Page 61</p> <p>[1] backyard. It's just a -- I mean, I don't know [2] exact -- how far away it was.</p> <p>[3] Q. So you were in some residential backyard?</p> <p>[4] A. It's just a regular -- right.</p> <p>[5] Q. Okay.</p> <p>[6] A. It's just a regular residential neighborhood.</p> <p>[7] Q. When you leave your vehicle -- well, that night when [8] you left your vehicle, you and Osko, do you have a [9] portable radio that you have with you?</p> <p>[10] A. Yes, sir.</p> <p>[11] Q. Okay. And I've seen them on your -- shoulder mics, [12] things like that?</p> <p>[13] A. Yes, sir.</p> <p>[14] Q. Is that what you had?</p> <p>[15] A. I don't know if I had my shoulder mic or if I just [16] had it like this (indicating).</p> <p>[17] Q. And that's just like a phone-style radio with an [18] antenna on it?</p> <p>[19] A. Yes.</p> <p>[20] Q. It's hand-held. [21] So you were able to have radio transmission [22] with dispatch after you left your vehicle?</p> <p>[23] A. Yes, sir.</p>	<p style="text-align: right;">Page 63</p> <p>[1] not a burglary at Arnaud's Quality Meats?</p> <p>[2] A. No. I never heard that.</p> <p>[3] Q. You never heard that?</p> <p>[4] A. No.</p> <p>[5] Q. Okay. After you were at the fence and you were [6] standing your -- holding your ground, I believe [7] Osko's with you the whole time; right?</p> <p>[8] A. Right.</p> <p>[9] Q. Okay. How long did you stay there at that position?</p> <p>[10] A. It wasn't long before some more units got there with [11] me.</p> <p>[12] Q. Okay. A matter of minutes?</p> <p>[13] A. Yeah.</p> <p>[14] Q. Okay. And then what happened?</p> <p>[15] A. And then we started the track.</p> <p>[16] Q. All right. And how long did that take, [17] approximately?</p> <p>[18] A. The track? I don't recall. I can't remember [19] exactly.</p> <p>[20] Q. Were you ultimately successful in apprehending the [21] suspects?</p> <p>[22] A. Correct. At the end of the -- yeah. After [23] everything was said and done, yes, sir.</p>
<p style="text-align: right;">Page 62</p> <p>[1] Q. Okay. And at the same time, were you able to hear [2] dispatch after you left your vehicle?</p> <p>[3] A. Yes, sir.</p> <p>[4] Q. Okay. And, generally, were you able to hear radio [5] transmissions?</p> <p>[6] A. Yes.</p> <p>[7] Q. Okay. And you stated earlier that you heard someone [8] state that, in fact, there was a burglary?</p> <p>[9] A. I stated that someone stated that there were -- was [10] a forced window -- a forced window, right.</p> <p>[11] Q. Okay.</p> <p>[12] A. I remember hearing that, yes, sir.</p> <p>[13] Q. Okay. And you don't recall who?</p> <p>[14] A. No.</p> <p>[15] Q. Okay. Do you recall that night -- do you recognize [16] -- excuse me. Scratch that. Do you recognize the [17] voice of Kirk Pelham over the radio?</p> <p>[18] A. I probably would have, yes.</p> <p>[19] Q. Okay. Do you recall that night hearing any radio [20] transmissions from Kirk Pelham in relation to [21] Arnaud's Quality Meats?</p> <p>[22] A. I can't recall.</p> <p>[23] Q. Okay. Do you recall anyone stating that there was</p>	<p style="text-align: right;">Page 64</p> <p>[1] Q. Okay. After your backup showed up and you began to [2] track, a period of time lapsed. What were you doing [3] during this period of time?</p> <p>[4] A. I was just watching the area.</p> <p>[5] Q. Okay. Were you securing the wreck scene?</p> <p>[6] A. I was -- no. There was another officer securing the [7] wreck scene. I was securing the area where I saw [8] the suspects.</p> <p>[9] Q. Okay. What's involved in securing the area?</p> <p>[10] A. I was basically just -- officer safety. Just making [11] sure that they're not going to come back and do [12] anything to me.</p> <p>[13] Q. Okay. How long did that last?</p> <p>[14] A. A matter of minutes.</p> <p>[15] Q. All right. And what -- you stopped at some point in [16] time securing that area. What -- why did you stop [17] securing that area?</p> <p>[18] A. When the other units got there, that's when I [19] stopped securing it. I mean --</p> <p>[20] Q. Okay. So then what did you do?</p> <p>[21] A. We continued on with the track.</p> <p>[22] Q. Okay. Where did you go specifically?</p> <p>[23] A. We went left.</p>

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<p>[1] Q. All right. Is that back into the street?</p> <p>[2] A. Back into the neighborhood.</p> <p>[3] Q. All right. And did you continue to search the neighborhood?</p> <p>[4] A. Yes.</p> <p>[5] Q. Okay. Were you able to apprehend any of the suspects yourself?</p> <p>[6] A. Me? No.</p> <p>[7] Q. Okay. Fill in the blank for me. You're searching for the suspects. Then what happens?</p> <p>[8] A. The suspects were apprehended. I don't know how many were apprehended during that time. I know Mr. Hogan was. We just searched the area -- I mean, looking for the suspects.</p> <p>[9] Q. Okay. And then you -- did you go back on patrol?</p> <p>[10] A. That night?</p> <p>[11] Q. Yes.</p> <p>[12] A. No. When I got done, I went to headquarters.</p> <p>[13] Q. Okay. Well, you're on third shift; right?</p> <p>[14] A. Right.</p> <p>[15] Q. And it starts at eleven o'clock?</p> <p>[16] A. Right.</p> <p>[17] Q. Okay.</p>	<p>[1] property out of the car and bring it to headquarters, yes.</p> <p>[2] Q. Okay. Detective Pelham instructed you to get the property out of the suspect's car and take it to headquarters?</p> <p>[3] A. Right.</p> <p>[4] Q. Okay. And you did not go back on patrol after that?</p> <p>[5] A. No.</p> <p>[6] Q. Okay. You stayed at headquarters?</p> <p>[7] A. I did my statements at headquarters. I -- yeah. I didn't stay at headquarters, no.</p> <p>[8] Q. Okay. You -- where did you go?</p> <p>[9] A. After I left headquarters?</p> <p>[10] Q. Yeah.</p> <p>[11] A. I went to the kennel and put my partner up and I went home.</p> <p>[12] Q. Okay. What time did you leave headquarters?</p> <p>[13] A. I don't know. I don't know what time it was.</p> <p>[14] Q. Was it a normal shift hour?</p> <p>[15] A. I can't recall.</p> <p>[16] Q. Okay. Do you have a sign-in or sign-out log that you have to fill out every day?</p>
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<p>[1] A. That day I was working second shift.</p> <p>[2] Q. Oh, that day you were working second shift?</p> <p>[3] A. Right.</p> <p>[4] Q. Oh, okay. And remind me again. That's from three --</p> <p>[5] A. Well, we had a second shift -- I want to say seven until three. Those were the hours that we were working.</p> <p>[6] Q. Okay. Seven at night until three --</p> <p>[7] A. Seven until four -- yeah.</p> <p>[8] Q. Okay. So you did not go back on patrol that night?</p> <p>[9] A. No.</p> <p>[10] Q. All right. What did you do?</p> <p>[11] A. Went to headquarters. Before I went to headquarters, I got -- I got the property out of the car that I was instructed to get out of the car and took it to headquarters with me.</p> <p>[12] Q. Okay. Well, did anyone instruct you to come back to headquarters?</p> <p>[13] A. I mean, I just know I had to go back and type statements.</p> <p>[14] Q. Okay.</p> <p>[15] A. But Detective Pelham instructed me to get the</p>	<p>[1] A. You mean like clocking in and clocking out?</p> <p>[2] Q. Yes, sir.</p> <p>[3] A. No.</p> <p>[4] Q. Okay. But is there a sign-in or sign-out sheet?</p> <p>[5] A. No.</p> <p>[6] Q. Okay. When you go off duty, do you have to report to dispatch that you're off duty?</p> <p>[7] A. No.</p> <p>[8] Q. Okay. How does someone know when you're off duty?</p> <p>[9] A. I mean, it's -- it's just routine. They know what time we get off.</p> <p>[10] Q. Okay. Where's the kennel?</p> <p>[11] A. It's off of Ripley Street.</p> <p>[12] Q. All right. How far is it from headquarters?</p> <p>[13] A. A couple minutes away.</p> <p>[14] Q. Is it --</p> <p>[15] A. Less than five minutes away.</p> <p>[16] Q. Okay. When you pulled up on the scene at Arnaud's Quality Meats -- I may have asked you this. I can't remember what your answer is. The suspect's car, you said from the diagram, was facing Arnaud's Meats?</p> <p>[17] A. Right.</p>

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<p>[1] Q. Okay. And you said that the suspect that you saw, [2] that you believe was Chad Hogan, was in the parking [3] lot area between Arnaud's Meats and the front of the [4] suspect's car?</p> <p>[5] A. Right.</p> <p>[6] Q. Okay. Were the lights on on the suspect's car at [7] that time?</p> <p>[8] A. I can't recall that.</p> <p>[9] Q. Okay. And after the suspect's car crashed -- [10] wrecked and it was up against the fence, did -- I [11] understand you to say that Mr. Hogan climbed the [12] fence?</p> <p>[13] A. Not the fence that they wrecked. The fence in the [14] backyard.</p> <p>[15] Q. Okay. Did you go over the fence, too?</p> <p>[16] A. Like I said, I held my spot until I got back up [17] there, and then we went over the fence.</p> <p>[18] Q. Okay. So you did go over the fence?</p> <p>[19] A. Eventually, yes, sir.</p> <p>[20] Q. Okay. What did you do with the property that -- [21] well, first of all, describe the property that you [22] collected?</p> <p>[23] A. It was a gun, a ski mask, a magazine for the gun,</p>	<p>[1] Q. Okay. And what did you put in your statement? [2] A. I put the -- what I saw when I pulled into the [3] business and what happened there afterwards.</p> <p>[4] Q. Okay. Can you remember with some specificity [5] exactly what you put in the statement?</p> <p>[6] A. I just put the details that I told you earlier. And [7] I just put everything else that happened afterwards.</p> <p>[8] Q. Okay. And what did you do with the statement after [9] you drafted it -- well, let me -- let me ask you [10] another question real quick.</p> <p>[11] A. Uh-huh.</p> <p>[12] Q. Did you hand write it?</p> <p>[13] A. Typed it.</p> <p>[14] Q. Typed it?</p> <p>[15] A. Uh-huh.</p> <p>[16] Q. Is it on a computer?</p> <p>[17] A. It is.</p> <p>[18] Q. All right. Is it -- did you do it in a word [19] processing program?</p> <p>[20] A. It was -- the format was already up on the screen. [21] I don't know if it's Microsoft Word or what it is. [22] I don't know.</p> <p>[23] Q. So is it a form and you just punch in what you need</p>
<p style="text-align: center;">Page 70</p> <p>[1] screwdrivers. I can't recall everything else. But [2] I remember those items.</p> <p>[3] Q. What kind of gun was it?</p> <p>[4] A. I can't remember that exact...</p> <p>[5] Q. Okay. Can you remember whether it was a revolver or [6] a semiautomatic?</p> <p>[7] A. I think it was a semiautomatic. It wasn't a [8] revolver.</p> <p>[9] Q. Do you recall the caliber?</p> <p>[10] A. No.</p> <p>[11] Q. Okay. Did you have an opportunity to ascertain who [12] the gun belonged to?</p> <p>[13] A. I think patrol did that. I didn't.</p> <p>[14] Q. Okay. Have you come to learn who the gun belonged [15] to?</p> <p>[16] A. No.</p> <p style="text-align: center;">MR. WHITEHEAD: Object to the form.</p> <p>[18] Q. Okay. You got back to headquarters with the [19] property. What did you do next?</p> <p>[20] A. I went upstairs to the detective division, which is [21] on the second floor. I walked in, and I began to do [22] my statement. I put the property where they told me [23] to put it, and I went to do my statement.</p>	<p style="text-align: center;">Page 72</p> <p>[1] to punch in in different areas?</p> <p>[2] A. Right.</p> <p>[3] Q. Okay. And is it in the style of a memo, like, from [4] me to you regarding this subject and then a --</p> <p>[5] A. Right.</p> <p>[6] Q. Okay. And who was it to?</p> <p>[7] A. To Lieutenant Caulfield.</p> <p>[8] Q. Okay. Why does it go to Lieutenant Caulfield?</p> <p>[9] A. He's my supervisor.</p> <p>[10] Q. Okay. And after you drafted that statement, what [11] did you do with it?</p> <p>[12] A. I gave it to Detective Pelham.</p> <p>[13] Q. Pelham. Okay. And then you went home for the [14] night?</p> <p>[15] A. No.</p> <p>[16] Q. Okay. Then what happened?</p> <p>[17] A. He told me to go down and impound the property that [18] I had brought upstairs.</p> <p>[19] Q. Did you do that?</p> <p>[20] A. I did.</p> <p>[21] Q. Okay. Then what did you do?</p> <p>[22] A. While impounding the property -- I impounded the [23] property and then I went back up -- while I</p>

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<p>[1] impounded the property, I had a conversation with [2] Lieutenant Caulfield over the radio where I was just [3] told to be sure that I do my statement and I state [4] all the facts in my statement.</p> <p>[5] Q. But you'd already done it?</p> <p>[6] A. Right.</p> <p>[7] Q. And -- so you told him you'd already done it?</p> <p>[8] MR. WHITEHEAD: Object to the form.</p> <p>[9] A. Well, I -- he didn't know that I had already done [10] it. He just called and told me to be sure that I do [11] my statement and be sure that I state all the facts [12] in my statement.</p> <p>[13] Q. Okay.</p> <p>[14] A. And I told him that I would.</p> <p>[15] Q. You told him that you would?</p> <p>[16] A. I told him that I would.</p> <p>[17] Q. You told -- you didn't tell him that you already [18] had?</p> <p>[19] A. Or that I had -- that I would -- that I had.</p> <p>[20] Q. Okay. So you told him that you had?</p> <p>[21] A. Right.</p> <p>[22] Q. Okay. And did he ask to see it?</p> <p>[23] A. No. He wasn't there. He was going to get a copy of</p>	<p>[1] reminding you to do your statement?</p> <p>[2] A. Uh-huh.</p> <p>[3] Q. And you told him you already had?</p> <p>[4] A. Uh-huh.</p> <p>[5] MR. WHITEHEAD: Object to the form.</p> <p>[6] Q. I believe you said you already had?</p> <p>[7] A. I told him I -- yes.</p> <p>[8] Q. Okay. Then what happened?</p> <p>[9] A. Then I went back upstairs to turn the property [10] receipt or the paperwork back over to the [11] detectives. I went back in the room to proofread my [12] statement again, because I still had it on the [13] computer. I never took it off of the screen on the [14] computer. I went back up, and I went back over my [15] statement and proofread it. And I saw where I did [16] need to -- I guess, it -- I was -- it wasn't [17] articulated. It was articulated, but it wasn't [18] articulated to the fact of their understanding. I [19] just made it more understanding as far as where I [20] saw -- what I saw and where I saw it.</p> <p>[21] Q. Who's Lieutenant Ron Cook?</p> <p>[22] A. He was Pelham's supervisor. He's a commander [23] upstairs.</p>
<p>[1] it eventually. He knew that.</p> <p>[2] Q. Okay. When you finished doing the report, did you [3] hand deliver it to Lieutenant Caulfield?</p> <p>[4] A. Which report?</p> <p>[5] Q. The report --</p> <p>[6] A. The statement?</p> <p>[7] Q. Yes.</p> <p>[8] A. Yes, sir.</p> <p>[9] Q. And after you finished the report or the statement [10] that you made, did you hand deliver it to Lieutenant [11] Caulfield?</p> <p>[12] A. Eventually, yes.</p> <p>[13] Q. Okay.</p> <p>[14] A. After I had left headquarters, yes, I did. I took [15] it to him.</p> <p>[16] Q. Where was he?</p> <p>[17] A. He was at the kennel.</p> <p>[18] Q. Oh, okay.</p> <p>[19] A. In his office.</p> <p>[20] Q. Okay. I see.</p> <p>[21] So you went to impound the property?</p> <p>[22] A. Uh-huh.</p> <p>[23] Q. And you got the call from Lieutenant Caulfield</p>	<p>[1] Q. Did you have any conversations with Mr. Cook that [2] night?</p> <p>[3] A. Yeah. I talked to him that night.</p> <p>[4] Q. What did you talk to him about?</p> <p>[5] A. I can't recall what I talked to him about.</p> <p>[6] Q. Was it in reference to the statement that you gave?</p> <p>[7] A. I gave him the other statement. He was the one that [8] received it. But I don't think it was directly [9] referenced to the statement. I remember him telling [10] me good job on what I had done. And we talked about [11] the incident that happened.</p> <p>[12] Q. What specifically did you talk about regarding the [13] incident?</p> <p>[14] A. I can't recall that either.</p> <p>[15] Q. Did Cook ever say anything about Pelham complaining [16] that there was no burglary?</p> <p>[17] A. No. Not to me.</p> <p>[18] Q. Okay. Did Ron Cook ever ask you to redraft your [19] statement?</p> <p>[20] A. No.</p> <p>[21] Q. Okay. So you say that you went back. And, in fact, [22] you did add some information that you had failed to [23] articulate the first time in your statement?</p>

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<p style="text-align: right;">Page 77</p> <p>[1] A. Right. [2] Q. Okay. And did anybody suggest that you add this information, or did you do it on your own? [3] A. I did it on my own. [4] Q. Okay. And what specifically did you add in your statement that you had not put in the first time? [5] A. I think I put specifically where the guy was when I pulled into the business and which direction he was seen coming from. [6] Q. Okay. Anything else? [7] A. No. [8] Q. Okay. And you turned your amended statement in then to Lieutenant Caulfield? [9] A. I made -- the copy of it. The amended one that I -- I made copies and I gave the original to Lieutenant Cook. [10] Q. Okay. [11] A. I think Pelham was interviewing a suspect at that time. [12] Q. Okay. Just so I understand. You drafted your statement. Then you went to the property room. Then you came back from property with a receipt. You submitted the receipt. And then you recalled</p>	<p style="text-align: right;">Page 79</p> <p>[1] Q. All right. Then you got a receipt? [2] A. Uh-huh. [3] Q. And then you brought the receipt back? [4] A. Uh-huh. [5] Q. And you gave the receipt to who? [6] A. To -- I don't know who I gave the receipt to. I don't know. I can't recall. [7] Q. Would it go to detectives? [8] A. It stayed up there, yes. [9] Q. You say you took Osko down to the kennel? [10] A. After everything, yes. [11] Q. Okay. And I guess that's something you do after every shift; right? [12] A. Right. [13] Q. Does the -- you're the only officer that uses Osko as a partner? [14] A. Right. [15] Q. Okay. And do you recall where you went after you dropped Osko off at the kennel? [16] A. I dropped him off, I turned my statement in to Lieutenant Caulfield, and I went home. [17] Q. Okay. Do you recall what time you got home? [18] A. I can't remember, no.</p>
<p style="text-align: right;">Page 78</p> <p>[1] that you wanted to add detailed -- [2] A. I went back into the -- I never closed my computer out. [3] Q. Okay. [4] A. I still had my statement on the screen. I just went back and I read over it -- [5] Q. Okay. [6] A. -- like any normal person would do. Proofread it. [7] Q. Sure. Did you print it before you made the amendment? [8] A. Yes. That was the first one I gave them before I went down to impound the property. That's the one that I printed. [9] Q. Okay. So you drafted your statement? [10] A. Uh-huh. [11] Q. And you printed it? [12] A. Uh-huh. [13] Q. And you gave it to Cook? [14] A. Gave it to Pelham. [15] Q. Pelham? [16] A. Uh-huh. [17] Q. All right. And then you went to property? [18] A. I went to the desk in impound property.</p>	<p style="text-align: right;">Page 80</p> <p>[1] Q. Was it a normal time after your shift? [2] A. It was -- yeah. When I was working those hours, yes, sir. [3] Q. Okay. And forgive me if you've said already, but did you have a conversation with Caulfield after you turned Osko in at the kennel about the statement? [4] A. I gave him my statement. He told me good job and I'll see you tomorrow. [5] Q. Okay. And before you turned the statement in, did you have any conversations at all with Caulfield about what was going to be put in the statement? [6] A. No. [7] Q. Okay. [8] (Brief interruption.) [9] MR. NELMS: Excuse me just one second. [10] Q. Did you ever meet Anthony Arnaud? [11] A. I met him at the zoo when we had zoo weekend. But, no, not that night, no. [12] Q. So you know who he is? [13] A. Yeah. Now I do, yes, sir. [14] Q. How did you -- so you met him at the zoo after the incident? [15] A. Right.</p>

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<p style="text-align: right;">Page 81</p> <p>[1] Q. Did you know him by sight? [2] A. Now I do. Then I didn't, no. [3] Q. Did you see him the night of the incident? [4] A. No. [5] Q. At all? [6] A. I don't recall seeing him, no. [7] Q. I mean, when I say at all -- I mean, when you're at [8] Arnaud's Quality Meats or at headquarters or... [9] A. Not that I recall. [10] Q. Okay. Had you ever seen him before March 31st? [11] A. No, not that I recall. [12] Q. When you saw him at the zoo, how did you know that [13] he was Anthony Arnaud? [14] A. He introduced himself. [15] Q. He came up and introduced himself to you? [16] A. To the K-9 unit. [17] Q. Okay. Were you in uniform? [18] A. Yes. [19] Q. Okay. Did you have a conversation with him at the [20] zoo? [21] A. Like I said, he introduced himself. [22] Q. Anything else? [23] A. No.</p>	<p style="text-align: right;">Page 83</p> <p>[1] Q. Okay. You stated earlier that you heard someone [2] confirm over the radio that there was -- and don't [3] let me put words in your mouth, because I think [4] we've talked about this twice already -- that there [5] was, in fact, a burglary? [6] A. There was a forced window. [7] Q. Forced window? [8] A. Uh-huh. [9] Q. Okay. Could that have been Sergeant Johnson? [10] A. It could have been. I mean, I don't know. [11] Q. Okay. To the best of your knowledge, was he one of [12] the police officers on the scene at Arnaud's Meats? [13] A. I can't remember. I never went back to the scene. [14] Q. Okay. Have you ever been interviewed by anyone with [15] internal affairs regarding the incidence of March [16] 31st regarding Chad Hogan? MR. BOYLE: I'm going to object. He can [17] answer as far as if he gave a statement or [18] whether or not there was -- there was an [19] investigation done. But just the general [20] interview questions or anything like that is [21] going to be word product and we're going to [22] object. [23]</p>
<p style="text-align: right;">Page 82</p> <p>[1] Q. He didn't talk about the lawsuit at all? [2] A. No. During that time, there were no -- there was no [3] lawsuit. [4] Q. Did you talk about the subject matter of the arrest? [5] A. No. [6] Q. Did you have any conversation with him at all about [7] the incidence of March 31st? [8] A. Not that I can recall. [9] Q. Okay. I'm sorry. Did I ask you who Everett Johnson [10] is? [11] A. No you didn't. [12] Q. Do you know who Everett Johnson is? [13] A. At the time, he was a third shift supervisor -- [14] patrol supervisor. [15] Q. Sergeant? [16] A. Uh-huh. [17] Q. Did you have any conversations with him on the night [18] of March 31st? [19] A. I can't recall. [20] Q. Did you have an opportunity to hear Sergeant [21] Everett Johnson's voice on the radio the night of [22] the incident? [23] A. I'm pretty sure I didn't.</p>	<p style="text-align: right;">Page 84</p> <p>[1] MR. WHITEHEAD: And I concur on that [2] objection. [3] Q. My question was, have you talked to anyone from [4] internal affairs regarding the incidence, or the [5] incident, of March 31st involving Chad Hogan and the [6] arrest of Chad Hogan? MR. WHITEHEAD: You can answer that [7] question. [8] A. Yes. [9] Q. I'm going to ask you a question and their going to [10] object. Okay. So hold your answer. [11] Can you tell me what you discussed with the [12] internal affairs investigator? MR. WHITEHEAD: And I'm going to instruct [13] -- instruct the client not to answer that [14] question on the basis of word product and [15] attorney/client privilege. MR. BOYLE: I'm arguing the same thing for [16] the City of Montgomery. The IA investigation [17] was done at the request of the legal [18] department in anticipation of litigation. So [19] it's word product. [20] Q. (By Mr. Nelms) What date, if you can recall, did</p>

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<p style="text-align: right;">Page 85</p> <p>[1] you have the conversation with an individual from [2] internal affairs?</p> <p>[3] MR. WHITEHEAD: You can answer that [4] question if you can remember.</p> <p>[5] A. I don't recall the date.</p> <p>[6] Q. Okay. Can you recall the distance or length in time [7] from March 31, 2005 that it was that you had this [8] conversation with someone from internal affairs?</p> <p>[9] MR. WHITEHEAD: You can answer that.</p> <p>[10] A. I can't recall that either.</p> <p>[11] Q. Okay. Was it before or after you were served with [12] this lawsuit that brings us here today?</p> <p>[13] MR. WHITEHEAD: You can answer.</p> <p>[14] A. It was before.</p> <p>[15] Q. Before?</p> <p>[16] A. Uh-huh.</p> <p>[17] Q. Okay.</p> <p>[18] MR. NELMS: I would like to certify the [19] question, what was the substance of the [20] conversation that Officer Gordon had with the [21] internal affairs investigator?</p> <p>[22] MR. WHITEHEAD: Duly noted.</p> <p>[23] MR. NELMS: And it's my understanding that</p>	<p style="text-align: right;">Page 87</p> <p>[1] A. No.</p> <p>[2] MR. NELMS: Off the Record. (Off-the-Record discussion.)</p> <p>[3] Q. Do you know Mike Trotter?</p> <p>[4] A. Yes.</p> <p>[5] Q. Okay. How do you know Mike Trotter?</p> <p>[6] A. He's an internal affairs investigator.</p> <p>[7] Q. Okay. As a result of anything that happened [8] regarding the arrest of Chad Hogan, have you been [9] disciplined in any way by the Montgomery Police [10] Department?</p> <p>[11] A. No.</p> <p>[12] Q. Okay. Since March 31, 2005, have you been given a [13] promotion?</p> <p>[14] A. Yes.</p> <p>[15] Q. All right. And how have you been promoted?</p> <p>[16] A. I will be promoted to corporal on -- tomorrow.</p> <p>[17] Q. Tomorrow?</p> <p>[18] A. Uh-huh.</p> <p>[19] Q. Okay. Congratulations.</p> <p>[20] A. Thank you.</p> <p>[21] Q. Does that include a raise in pay?</p> <p>[22] A. Yes, sir.</p>
<p style="text-align: right;">Page 86</p> <p>[1] the officer has been instructed not to answer [2] that question; is that correct?</p> <p>[3] MR. WHITEHEAD: That is correct.</p> <p>[4] MR. NELMS: Okay.</p> <p>[5] Q. (By Mr. Nelms) Did you -- have you ever had more [6] than one conversation with internal affairs [7] investigators?</p> <p>[8] MR. WHITEHEAD: You can answer that.</p> <p>[9] A. I have.</p> <p>[10] Q. Okay. Tell me how many conversations you've had [11] with internal affairs investigators.</p> <p>[12] MR. WHITEHEAD: You can answer that.</p> <p>[13] A. I can't recall that.</p> <p>[14] Q. Was it less than five?</p> <p>[15] A. Yes.</p> <p>[16] Q. Was it more than two?</p> <p>[17] A. I don't know. Probably.</p> <p>[18] Q. Okay. The first conversation you had with internal [19] affairs was before you were served with this [20] lawsuit. Have you had any conversations with [21] internal affairs after you were served with this [22] lawsuit?</p> <p>[23] MR. WHITEHEAD: You can answer that.</p>	<p style="text-align: right;">Page 88</p> <p>[1] Q. Okay. Other than this promotion to corporal, have [2] you had any other formal promotion or pay increase [3] since March 31, 2005?</p> <p>[4] A. I can't remember.</p> <p>[5] Q. You can't remember?</p> <p>[6] A. No. I -- I mean, I can't recall that. I don't [7] know.</p> <p>[8] Q. Okay. Have -- can you recall having any increase in [9] pay?</p> <p>[10] A. I have. But I don't know if it was before or after [11] the incident.</p> <p>[12] Q. Okay. The promotion to corporal, did you have to [13] take some examination in order to become a corporal?</p> <p>[14] A. You do.</p> <p>[15] Q. And I believe you stated earlier, you're the only [16] K-9 officer that is not a corporal?</p> <p>[17] A. There's two of us, actually.</p> <p>[18] Q. Okay. And I believe you said that corporal Mora [19] actually arrested Chad Hogan; is that correct?</p> <p>[20] A. He actually apprehended him, correct.</p> <p>[21] Q. Okay. To the best of your knowledge, did he write a [22] statement about the arrest?</p> <p>[23] A. I'm pretty sure he did.</p>

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<p>[1] Q. Okay. Did Lieutenant Caulfield ever come up to [2] headquarters while you were at headquarters on the [3] night of the incident?</p> <p>[4] A. I think he was there before I was there.</p> <p>[5] Q. Okay. Did you ever have an opportunity to see him [6] actually at headquarters?</p> <p>[7] A. Yes, sir.</p> <p>[8] Q. Okay. And this was while -- after the incident [9] while you were at headquarters?</p> <p>[10] A. Right.</p> <p>[11] Q. Okay. And, obviously, before you turned in your [12] report to him at the kennel.</p> <p>[13] A. Right.</p> <p>[14] Q. Okay. Did you have an opportunity to talk to him [15] during that window of time where you were both at [16] headquarters together?</p> <p>[17] A. It was -- if so, it was a brief conversation. It [18] would be a, that a boy, good job.</p> <p>[19] Q. Okay. Any specifics you can remember about that [20] conversation?</p> <p>[21] A. No.</p> <p>[22] Q. Okay. Do you remember there being an incident at [23] Alabama State University involving a K-9 officer and</p>	<p>[1] bite at Alabama State University?</p> <p>[2] A. I mean, everybody -- after a bite, we all talk about [3] it, you know, good jobs and everything like that.</p> <p>[4] Q. Okay. Well, who did you talk to about the event at [5] Alabama State University?</p> <p>[6] A. I'm pretty sure I talked to everybody about it.</p> <p>[7] Q. Did you talk to Lieutenant Caulfield about it?</p> <p>[8] A. He's my supervisor.</p> <p>[9] Q. Okay. Did you talk to Corporal Mora about it?</p> <p>[10] A. Yes.</p> <p>[11] Q. Okay. Who was the K-9 officer in charge of the dog [12] that did the biting at ASU?</p> <p>[13] A. It was myself.</p> <p>[14] Q. Okay. And why don't you tell me the circumstances [15] surrounding that event?</p> <p>[16] MR. WHITEHEAD: That's fine.</p> <p>[17] A. I mean, we got called to assist ASU police. They [18] had some subjects that were attempting to break-in [19] to an ATM machine and a snack machine. The subjects [20] fled and crossed Carter Hill Road onto another [21] street, and they hid in the area. One subject [22] supposedly had on handcuffs. I think it was three [23] of them total.</p>
<p>[1] his dog?</p> <p>[2] A. Correct.</p> <p>[3] Q. Do you remember the date of that incident?</p> <p>[4] A. I do not.</p> <p>[5] Q. Do you recall whether or not it was before or after [6] March 31, 2005?</p> <p>[7] A. It was before.</p> <p>[8] Q. Okay. Months, weeks, days? Can you tell me?</p> <p>[9] A. I can't remember. Maybe weeks.</p> <p>[10] Q. Okay.</p> <p>[11] A. Maybe months. I don't know.</p> <p>[12] Q. Okay. Do you know whether or not there was [13] allegation that the bite at Alabama State University [14] was unlawful?</p> <p>[15] A. Yes.</p> <p>[16] Q. Okay. And, in fact, was there an allegation that [17] the bite at Alabama State University was unlawful?</p> <p>[18] A. Yes.</p> <p>[19] Q. Had there been discussion among the K-9 officers of [20] the event at Alabama State University?</p> <p>[21] A. What do you mean?</p> <p>[22] Q. Did you ever talk to any of your fellow K-9 officers [23] about the circumstances of the event regarding the</p>	<p>[1] Page 90</p> <p>[1] We got called in the area to assist. We got [2] there, I put my dog on the ground, Corporal Mora [3] used his dog as well. He located the first [4] suspect. His dog apprehended him. A couple of [5] minutes later -- maybe thirty minutes later, I [6] apprehended the second suspect attempting to hide [7] and get away from me hiding in a bush.</p> <p>[8] Q. Do you recall the name of the individual that was [9] bitten by Osko?</p> <p>[10] A. I can't remember.</p> <p>[11] Q. Okay. Was he subsequently convicted?</p> <p>[12] A. That I don't know.</p> <p>[13] Q. Okay. Did you ever have to go to court to testify?</p> <p>[14] A. No.</p> <p>[15] Q. What was the nature of the complaint?</p> <p>[16] A. It was -- like I said, it was a burglary in [17] progress.</p> <p>[18] Q. No. The complaint regarding the bite.</p> <p>[19] A. He made allegations that the bite was unlawful.</p> <p>[20] Q. What, if you know, specifically, did he say?</p> <p>[21] A. I don't know exactly what he said.</p> <p>[22] Q. Has a lawsuit been filed against you in that case?</p> <p>[23] A. I haven't been served a lawsuit, no.</p> <p>[1] Page 92</p>

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<p style="text-align: right;">Page 93</p> <p>[1] Q. Okay. Do you write a statement, like you wrote in [2] this case -- [3] A. Uh-huh. [4] Q. -- for every arrest that's made? [5] A. Correct. [6] Q. Okay. But you did not make the arrest of Chad [7] Hogan; is that correct? [8] A. Correct. [9] Q. Corporal Mora made the arrest? [10] A. I wouldn't say that he did it either. I mean, I [11] don't know who actually read him his Miranda rights. [12] I don't -- I don't know. [13] Q. Did anyone specifically ask you, before you had your [14] conversation with Caulfield while you were taking [15] the property to be accessioned at property -- [16] A. Uh-huh. [17] Q. Did anyone, including Caulfield, specifically tell [18] you to write a statement? [19] A. I knew that was my job to do. [20] Q. Okay. So you took it upon yourself to write a [21] statement? [22] A. Right. [23] Q. Your training told you you're supposed to write a</p>	<p style="text-align: right;">Page 95</p> <p>[1] me -- three-page document and ask you if you [2] recognize this document, please, Mr. Gordon. [3] A. Correct. [4] (Brief recess.) [5] MR. NELMS: Back on the record. [6] Q. Before we -- I took my break, I handed you a [7] document and asked you to review it. It is four [8] pages, is it not? [9] A. Yes. [10] Q. All right. It includes an Alabama Uniform Incident [11] Offense Report, an arrest report, and two memoranda [12] to Caulfield from Gordon dated March 31, 2005? [13] We were talking earlier about a statement that [14] you drafted for Lieutenant Caulfield. Is this the [15] statement we were referring to? [16] A. Correct. [17] (Plaintiff's Exhibit No. 1 was marked [18] for identification.) [19] MR. NELMS: I marked it as Plaintiff's [20] Exhibit 1. And we'll submit it to the court [21] reporter. [22] Q. One of the memoranda is signed by you. The other is [23] not; is that correct?</p>
<p style="text-align: right;">Page 94</p> <p>[1] statement. [2] A. Correct. [3] Q. Okay. [4] THE WITNESS: Can we take a quick restroom [5] break? [6] MR. NELMS: Yeah. [7] (Brief recess.) [8] MR. NELMS: Okay. Back on the record. [9] Q. You told me about going back and making an amendment [10] to your statement. Did you make any other changes [11] or amendments to the statement other than the one [12] you've told me about? [13] A. That's all I can remember. I mean, I don't know. [14] I'd have to look back at my statements to see the [15] difference. [16] Q. Okay. So you wrote your statement the first time -- [17] A. Uh-huh. [18] Q. -- went to property, came back, added the [19] information that you've told me about. And other [20] than that, you don't recall making any amendments to [21] that statement otherwise? [22] A. Correct. [23] Q. Okay. I'm going to show you a four page -- excuse</p>	<p style="text-align: right;">Page 96</p> <p>[1] A. It is. [2] Q. Okay. The one that is not, is that the first draft [3] that you referred to? [4] A. Correct. [5] Q. The one that you made before you went down to [6] property? [7] A. Correct. [8] Q. Okay. And the one that is signed by you -- [9] A. That's the official. [10] Q. That's the official? [11] A. Right. [12] Q. You said official. But it's the one you turned in [13] to Caulfield. [14] A. Right. [15] Q. Okay. It came to me attached to the I&O and the [16] arrest report. Do you know of any reason why the [17] memorandum from you to Caulfield should be attached [18] to the I&O and the arrest report? [19] A. Who sent it to you? How did you get it? [20] Q. Well -- do you know of any reason why the memorandum [21] would be attached to... [22] A. No. [23] Q. Okay. Is it standard procedure to attach such a</p>

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<p style="text-align: right;">Page 97</p> <p>[1] statement to an I&O or arrest report?</p> <p>[2] A. I don't know. After I turn it in, I don't know what</p> <p>[3] happens to it. I don't know.</p> <p>[4] Q. Okay. I don't know either. So I was just asking.</p> <p>[5] And I believe the -- the change that you made</p> <p>[6] is you added a couple of words. Can you tell me --</p> <p>[7] point to what you added in the signed memorandum</p> <p>[8] that you did not have in the original?</p> <p>[9] A. The window is in there.</p> <p>[10] Q. The window?</p> <p>[11] A. Uh-huh.</p> <p>[12] Q. So you state, observed a Lincoln Town Car parked on</p> <p>[13] the side of the business next to a side window.</p> <p>[14] A. Uh-huh.</p> <p>[15] Q. And observed a black male standing outside of the</p> <p>[16] vehicle -- excuse me. I can't read. Next to the</p> <p>[17] business where the alarm was received.</p> <p>[18] A. Right.</p> <p>[19] Q. Okay. And in the first you wrote --</p> <p>[20] A. I just had he was standing outside of the vehicle.</p> <p>[21] Q. But you didn't say where?</p> <p>[22] A. Right.</p> <p>[23] Q. Okay. Is it your testimony today that you only made</p>	<p style="text-align: right;">Page 99</p> <p>[1] Plaintiff's Exhibit No. 2. I ask you to look at</p> <p>[2] this document and tell me if you're familiar with</p> <p>[3] it.</p> <p>[4] A. I'm not.</p> <p>[5] Q. Okay. I ask you to turn to the next to the last</p> <p>[6] page.</p> <p>[7] A. (Witness complies).</p> <p>[8] Q. It's a page that has a number of signatures on it --</p> <p>[9] A. Right.</p> <p>[10] Q. -- is it not?</p> <p>[11] A. Right.</p> <p>[12] Q. There's one line that says M. D. Gordon.</p> <p>[13] A. Right.</p> <p>[14] Q. And there's a signature above it. Is that your</p> <p>[15] signature?</p> <p>[16] A. Correct.</p> <p>[17] Q. Okay. Are these your answers and responses to</p> <p>[18] discovery that we propounded upon you?</p> <p>[19] A. It is.</p> <p>[20] Q. Okay. And are these answers accurate to the best of</p> <p>[21] your knowledge?</p> <p>[22] A. They are, to the best of my knowledge.</p> <p>[23] Q. Did you draft these answers?</p>
<p style="text-align: right;">Page 98</p> <p>[1] one amendment to this statement?</p> <p>[2] A. Right.</p> <p>[3] Q. And this is the one and only amendment that you made</p> <p>[4] to this statement that you gave to Caulfield?</p> <p>[5] A. Right. As far as I know, yes.</p> <p>[6] Q. Okay. Did you make any draft or any statement for</p> <p>[7] submission to Caulfield, Cook, Pelham, or anyone</p> <p>[8] else, before you drafted Plaintiff's Exhibit No. 1</p> <p>[9] the signed memorandum?</p> <p>[10] A. The one that's not signed.</p> <p>[11] Q. Before that one, did you make any other written</p> <p>[12] statement?</p> <p>[13] A. Not that I recall, no.</p> <p>[14] Q. Not that you can recall?</p> <p>[15] A. Right.</p> <p>[16] Q. So there's a possibility that there was another</p> <p>[17] written statement?</p> <p>[18] MR. WHITEHEAD: Object to the form.</p> <p>[19] A. Not that I can recall, no.</p> <p>[20] Q. Okay.</p> <p>[21] (Plaintiff's Exhibit No. 2 was marked</p> <p>[22] for identification.)</p> <p>[23] Q. I'm going to hand you a document that I've marked as</p>	<p style="text-align: right;">Page 100</p> <p>[1] A. What was that?</p> <p>[2] Q. Did you draft these answers?</p> <p>[3] A. These are my answers, right.</p> <p>[4] Q. My question was, did you draft these answers?</p> <p>[5] A. Yeah. These are my answers, right.</p> <p>[6] MR. WHITEHEAD: Are you asking did he</p> <p>[7] draft the document?</p> <p>[8] A. Did I create the document? Is that what you're</p> <p>[9] asking?</p> <p>[10] Q. Let's go to No. 2 --</p> <p>[11] A. Okay.</p> <p>[12] Q. -- on Page 2.</p> <p>[13] A. Okay.</p> <p>[14] Q. The answer -- first of all, you object. Then you</p> <p>[15] state that you graduated from the academy and that</p> <p>[16] you've completed other training.</p> <p>[17] A. Uh-huh.</p> <p>[18] Q. The question asked for dates, places, certificates</p> <p>[19] of completion, etc. You do not provide those.</p> <p>[20] A. Right.</p> <p>[21] Q. Was that your choice not to provide the dates, the</p> <p>[22] places, and certificates of completion.</p> <p>[23] MR. NELMS: Object on the basis of</p>

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<p style="text-align: right;">Page 101</p> <p>[1] attorney/client privilege and word product and [2] I instruct you not to answer that question. [3] The answers speaks for itself.</p> <p>[4] Q. Are you not going to answer the question? [5] A. No.</p> <p>[6] Q. My question is, was it your decision not to provide [7] the dates, places, and certificates of completion [8] for training that you've received? And you've [9] indicated that you're not going to answer that [10] question, because your lawyer has instructed you not [11] to because he claims it's attorney/client privilege; [12] is that correct?</p> <p>[13] A. That's correct.</p> <p>[14] MR. NELMS: I ask that the question be [15] certified.</p> <p>[16] MR. WHITEHEAD: Duly noted.</p> <p>[17] Q. Question No. 3. Do you see it?</p> <p>[18] A. Uh-huh.</p> <p>[19] Q. There's a Nextel number there. Do you see that?</p> <p>[20] A. I do.</p> <p>[21] Q. Is that a number and a phone that is assigned to you [22] by the Montgomery Police Department?</p> <p>[23] A. It's not.</p>	<p style="text-align: right;">Page 103</p> <p>[1] Q. Is it your belief, as you sit here today, that, in [2] fact, Chad Hogan did commit a burglary at Arnaud's [3] Meats?</p> <p>[4] A. I still believe what I believed March 31st, yes.</p> <p>[5] Q. Thank you. You also state that there was a handgun, [6] ski mask, and flashlight found inside the vehicle; [7] is that correct?</p> <p>[8] A. Yes.</p> <p>[9] Q. Okay. What is the importance of noting that there [10] was a flashlight inside the vehicle?</p> <p>[11] A. That's just to let you know what I found in the [12] vehicle, also.</p> <p>[13] Q. Do you see Request for Production No. 2?</p> <p>[14] A. No. 2?</p> <p>[15] Q. Yes, sir.</p> <p>[16] A. Yeah.</p> <p>[17] Q. It asks for the entire investigative file related to [18] the arrest of Chad Hogan. Do you acknowledge that?</p> <p>[19] A. Yeah.</p> <p>[20] Q. And it says, see attached documents; correct?</p> <p>[21] A. Correct.</p> <p>[22] Q. Were both of the memoranda that we've discussed [23] today included in your response to No. 2?</p>
<p style="text-align: right;">Page 102</p> <p>[1] Q. Is it your private number? [2] A. It is.</p> <p>[3] Q. Okay. Do you pay that phone bill yourself? [4] A. I do.</p> <p>[5] Q. Does the Montgomery Police Department contribute in [6] any way to the bill or payment of the bill for your [7] cell phone?</p> <p>[8] A. I pay the bill myself.</p> <p>[9] Q. Thank you. Do you see No. 5?</p> <p>[10] A. I do.</p> <p>[11] Q. I asked you to provide me with a narrative of the [12] events of March 31, 2005. And you've given me an [13] answer. And it states, the defendant states that it [14] his understanding that the plaintiff committed a [15] burglary at Arnaud's Meats. Is that your [16] understanding?</p> <p>[17] A. It is.</p> <p>[18] Q. Do you have any reason to believe that, in fact, the [19] plaintiff, Chad Hogan, did not commit a burglary at [20] Arnaud's Meats?</p> <p>[21] A. No.</p> <p>[22] Q. Is it your belief --</p> <p>[23] MR. WHITEHEAD: Object to the form.</p>	<p style="text-align: right;">Page 104</p> <p>[1] A. I can't recall.</p> <p>[2] Q. Thank you.</p> <p>[3] A. I can't recall.</p> <p>[4] Q. It says in No. 3, produce copies of any notes, [5] diaries, correspondence, memorandum, or reports of [6] any kind related to the incident and arrest of the [7] plaintiff, which occurred on or about March 31, [8] 2005. Did you -- it says none; correct?</p> <p>[9] A. Uh-huh.</p> <p>[10] Q. Are you aware of any notes, diaries, or other [11] correspondence -- memorandum of any kind related to [12] the arrest of Chad Hogan?</p> <p>[13] MR. WHITEHEAD: Other than what was [14] produced to you as part of the file?</p> <p>[15] Q. Other than what was produced.</p> <p>[16] A. Right. That would be the entire investigative file.</p> <p>[17] Q. Do you have any personal notes?</p> <p>[18] A. No.</p> <p>[19] Q. Any other diaries that you may be aware of?</p> <p>[20] A. No.</p> <p>[21] Q. Did you ever have an opportunity to talk to anyone [22] at the District Attorney's office related to the [23] arrest of Chad Hogan?</p>

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<p>[1] A. No.</p> <p>[2] Q. Are you aware of the status of the Burglary 3 charge against Chad Hogan at this time?</p> <p>[3] A. No.</p> <p>[4] Q. Do you know whether or not it's been prosecuted?</p> <p>[5] A. No, I don't know.</p> <p>[6] Q. Any investigator from the District Attorney's office contact you in relation --</p> <p>[7] A. I haven't talked to anyone from the DA's office.</p> <p>[8] Q. Other than what we've talked about here today --</p> <p>[9] A. Uh-huh.</p> <p>[10] Q. -- do you have or know of any evidence that Chad Hogan burglarized Arnaud's Meats?</p> <p>[11] A. Not other than what we talked about today, no.</p> <p>[12] Q. Were any fingerprints taken of the scene?</p> <p>[13] A. I don't know.</p> <p>[14] Q. Were any footprints found at the scene?</p> <p>[15] A. I have no idea.</p> <p>[16] Q. Was any property belonging to Arnaud's Meats found on the person of Chad Hogan?</p> <p>[17] A. Not to my knowledge. I don't know.</p> <p>[18] Q. When, to the best of your knowledge, did you see Chad Hogan in person after he was arrested?</p>	<p>[1] (Plaintiff's Exhibit No. 3 was marked for identification.)</p> <p>[2]</p> <p>[3]</p> <p>[4]</p> <p>[5]</p> <p>[6]</p> <p>[7]</p> <p>[8]</p> <p>[9]</p> <p>[10]</p> <p>[11]</p> <p>[12]</p> <p>[13]</p> <p>[14]</p> <p>[15]</p> <p>[16]</p> <p>[17]</p> <p>[18]</p> <p>[19]</p> <p>[20]</p> <p>[21]</p> <p>[22]</p> <p>[23]</p>
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<p>[1] A. I did. I saw him on the scene after he was apprehended.</p> <p>[2] Q. Was he injured in any way?</p> <p>[3] A. He received a dog bite.</p> <p>[4] Q. Where was the dog bite on his person?</p> <p>[5] A. I want to say it was to his leg. I can't remember.</p> <p>[6] Q. Okay. Can you describe the wound itself?</p> <p>[7] A. No, I can't.</p> <p>[8] Q. Do you know -- were there any puncture marks?</p> <p>[9] A. I'm pretty sure there were.</p> <p>[10] Q. Can you differentiate between whether there were puncture marks or scratches?</p> <p>[11] A. I mean, I don't know what he had. I don't know what he received. My dog didn't bite him.</p> <p>[12] Q. I understand. I'm asking you what you know. Did he receive, Chad Hogan that is, any medical treatment or first aid as a result?</p> <p>[13] A. Everyone that's dog bitten receives some medical attention.</p> <p>[14] Q. Was Mr. Hogan taken to a hospital?</p> <p>[15] A. I'm not sure.</p> <p>[16] MR. NELMS: That's all I've got.</p>	<p>[1] REPORTER'S CERTIFICATE</p> <p>[2]</p> <p>[3] STATE OF ALABAMA</p> <p>[4] COUNTY OF MONTGOMERY</p> <p>[5]</p> <p>[6] I, Angela Fulmer, Certified Shorthand Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify that on February 9, 2006, pursuant to notice and stipulation on behalf of the Plaintiff, I reported the deposition of J. M. GORDON, who was first duly sworn by me to speak the truth, the whole truth, and nothing but the truth, in the matter of Civil Action Number 2:05CV-687-F, now pending in the United States District Court for the Middle District of Alabama, Northern Division, that the foregoing 107 typewritten pages contain a true and accurate transcription of the examination of said witness by counsel for the parties set out herein; that the reading and signing of said deposition was waived by witness and counsel for the parties.</p> <p>[17] I further certify that I am neither of kin nor of counsel to the parties to said cause, nor in any manner interested in the results thereof.</p>